

**AMERICAN FEDERATION
OF TELEVISION & RADIO ARTISTS
(AFTRA)**



**2010-2011
INTERACTIVE MEDIA AGREEMENT**

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AFTRA
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TABLE OF CONTENTS

Section	Article	Page
	ARTICLE I - GENERAL.....	1
1.	Title of Agreement	1
2.	Recognition	1
3.	Definitions.....	1
4.	Recognition, Rules and Regulations	5
5.	Reason for Code.....	5
6.	Application.....	5
7.	Term of Agreement	5
8.	Geographical Jurisdiction	5
9.	Employer’s Duties	6
10.	Cleanliness	6
11.	Notice to AFTRA.....	6
12.	Admission to Premises.....	6
13.	Union Security	6
14.	Preference of Employment	7
15.	People Covered	9
16.	Rights	9
17.	Reuse of Material.....	9
18.	Trailers; Promotions.....	10
19.	Compensation	11
20.	Non-Discrimination Policy	14
21.	Contracts with Performers	15
22.	Existing Contracts.....	15
23.	Individual Contracts.....	15
24.	Minimum Scale/Terms.....	16
25.	Prohibition Against Crediting	16
26.	AFTRA Member Reports; Performer Contracts	16
27.	Evasion of Responsibility	16
28.	Waivers.....	16
29.	Waiver of Rights By Members.....	17
30.	Production Staff	17
31.	Payments	17
32.	Social Security, Withholding, Unemployment and Disability Insurance Taxes	18
33.	Safeguards Against Violation.....	18
34.	AFTRA Health and Retirement Funds.....	18
35.	Right to Respect Picket Lines	20
36.	Separability	20
37.	Production Prosecuted	20
38.	No Strike - No Lockout.....	21
39.	Transfer of Rights - Assumption Agreement	21
40.	Union Standards.....	21
41.	Arbitration.....	22
42.	Right to Terminate; Unfair List.....	23
43.	Notices to Performers	23
44.	Most Favored Nations.....	23
45.	Force Majeure	23
46.	Administration of Agreement	24
47.	Entire Agreement	24

ARTICLE II - WORKING CONDITIONS - PRINCIPAL PERFORMERS.....	25
1. Casting and Auditions	25
2. Consecutive Employment	25
3. Retakes, Added Scenes, Etc.	26
4. Conversion of Day Players	26
5. Work Time - Definition and Exceptions	26
6. Overtime	27
7. Engagement; Non-Use of Services After Engagement.....	27
8. Prompting Devices; Description of Role; Scripts.....	28
9. Advance Information; Notice of Services.....	28
10. Fittings, Wardrobe Tests, and Makeup Tests.....	28
11. Makeup, Hairdress, Wardrobe Allowance	29
12. Rest Periods	30
13. Rest Period; Liquidated Damages for Violation	31
14. Meal Periods; Allowances; Liquidated Damages	31
15. Story, Song and Production Conferences.....	32
16. Study of Lines or Scripts.....	32
17. Publicity Interviews and Stills	32
18. Rehearsal Time.....	32
19. Saturday and Sunday Work; Night Work; Holidays	33
20. Weather Permitting Calls/Day Players Only.....	33
21. Scripted Lines; Upgrade of Background Actors (Non-Scripted Lines Only)	34
22. Stunt Adjustment.....	34
23. Pre-Recordings; Pre-Production Stills	35
24. Tours and Personal Appearances	35
25. Dressing Rooms; Miscellaneous Amenities.....	35
26. Flight Insurance	35
27. Expenses	35
28. Protection of Performers; Special Conditions.....	36
29. Travel	38
30. Minors.....	40
31. Indemnification	42
32. Cast Credits.....	43
33. Miscellaneous	43
ARTICLE III - WORKING CONDITIONS - BACKGROUND ACTORS.....	44
1. Application.....	44
2. Inserts	44
3. Waivers.....	44
4. Hazardous Work.....	45
5. Wet Work	45
6. Body Makeup, Skull Cap, Hair Goods	45
7. Interviews.....	46
8. Sixteen-Hour Rule	46
9. Callbacks.....	46
10. Cancellation of Calls.....	47
11. Weather Permitting Calls	47
12. Undirected Scenes.....	48
13. Omnies	48
14. Hiring Practices.....	48
SIDELETTER OF UNDERSTANDING.....	49
EXHIBITS	
Exhibit A – Member Report.....	51
Exhibit B – Health & Retirement Report.....	53
Exhibit C – Performer Contract	55

**2010-2011
AFTRA
INTERACTIVE MEDIA AGREEMENT**

This AGREEMENT is entered into this _____ day of _____ by and between the AMERICAN FEDERATION OF TELEVISION AND RADIO ARTISTS, AFL-CIO (hereinafter sometimes referred to as “Union” or “AFTRA”), and (hereinafter referred to as “Employer”).

ARTICLE I - GENERAL

1. TITLE OF AGREEMENT

This Agreement shall be referred to as the 2010-2011 AFTRA INTERACTIVE MEDIA AGREEMENT (“Agreement”), and includes the Articles I, II and III hereof.

2. RECOGNITION

AFTRA is recognized as the exclusive bargaining agent for all Performers engaged to render services under this Agreement, throughout the United States in the production of Material for Interactive Media recorded on video tape or by any other means or methods except recordation by motion picture film photography.

3. DEFINITIONS

- A. *“Computer Animation”*: The term “Computer Animation” means visual characters and graphics based on computer generated art to simulate life-like movement in the characters.
- B. *“Day Player”*: The term “Day Player” means a Principal Performer employed by the day other than as a Background Actor.
- C. *“Background Actor”*: Background Actors are non-Principal Performers who do not speak any words as individuals but who may be heard, singly or in concert, as part of a crowd. A *“Qualified Professional Background Actor”* is a Background Actor who has had prior employment as such at least once during the period of three (3) years preceding the date of proposed employment hereunder.
- D. *“Integration”*: Integration is the use of an excerpt of a Principal Performers performance that was rendered under the terms of this Agreement, in any other Interactive Program (i.e., other than the Interactive Program for which such Principal Performer originally was employed by Employer) for which the Performer is not engaged to perform but which is produced by Employer. Any other Reuse of the Performers performance shall be considered “Reuse” hereunder. Integration does not mean or include: (i) the repetition of segments of any single Interactive Program that may appear to be many different Programs due to the way viewers choose or recall various segments and/or manipulate the Program; (ii) the re-configuration or re-formulation of the Material produced hereunder for a single Interactive Program for the computer software code to adapt the Interactive Program to different Platforms, Remote Delivery systems, or geographic territories, and/or to update or upgrade such Interactive Program for marketing purposes; (iii) the use of Material for Interactive Media in Linear Programs.
- E. *“Interactive”*: The term “Interactive” describes the attribute of Interactive Programs or Interactive Media (as such terms are defined herein) which enables the viewer or user of such Interactive Programs or Interactive Media to manipulate, affect or otherwise alter, on a real time basis, the sequence or presentation of the creative content contained therein.
- F. (i) The term *“Interactive Media”* means: any media (i.e., hardware) on which Interactive Programs operate and through which the user may interact with such Interactive Programs, including but not limited to personal computers, games, machines, arcade games, all CD - Interactive machines and any and all analogous, similar or dissimilar microprocessor-based units and the digitized, electronic or any other formats now known or hereafter invented which may be utilized in connection therewith; and

- (ii) The term “*Remote Delivery*” means any system by or through which Interactive Programs may be accessed by consumers for use from a location that is remote from the central processing unit on which such Interactive Programs are principally used or stored, such as an on-line service, a delivery service over cable television lines, telephone lines, microwave signals, radio waves, satellite, wireless cable or any other service or method now known or hereafter invented for the delivery or transmission of such Interactive Programs.

“*Interactive Media*” and “*Remote Delivery*” specifically exclude the Linear transmission of Programs by: (i) traditional, public or commercially sponsored over-the-air network television (e.g., PBS, NBC, CBS, ABC or Fox), syndicated television broadcasts (UHF or VHF), and cable television transmission (e.g., HBO, TNT, Showtime); and (ii) radio broadcasts, which uses are not included within the subject matter of this Agreement and are covered by other AFTRA Codes; and any other systems now known or hereafter invented for the transmission of Linear Programs.

G. “*Linear*”: Programs which do not possess Interactive qualities are “*Linear*” in nature, and “*Linear Program(s)*” mean those Programs which are:

- (i) produced and memorialized by means of videotape or film photography or any other processes now known or hereafter invented through which photographic images or other visual representations (whether live-action or animated) are used alone, or in conjunction with audio effects, and create life-like images of the characters therein, and are:
- (ii) exhibited or transmitted to the viewer by:
 - (a) television (UHF or VHF over-the-air broadcast, cable, satellite, or any other means or methods which may be known or hereafter invented for television reception); and/or
 - (b) video cassettes, video discs or any other devices used in conjunction with corresponding hardware to cause a presentation to be exhibited visually on the screen of a television receiver or any comparable device; and/or
 - (c) film projection in motion picture theaters.

For example, “*Linear Program(s)*” include theatrically exhibited motion pictures, network and cable television pilots/series and made-for-television films, films on cassettes and discs, “live” television or other traditional, filmed or videotaped, non-Interactive entertainment Programming. “*Linear Program(s)*” do not include any Interactive Programs produced hereunder for Interactive Media, notwithstanding any method of delivery to the viewer or venue for exhibition of Interactive Programs which may utilize television cable, wire (or any other means or methods) which heretofore have been utilized to transmit or exhibit Linear Program(s).

- H. “*Linear Television*”: The term “*Linear Television*” refers to the act of broadcasting or transmitting Linear Program(s) to the viewer.
- I. “*Liquidated Damages*”: The term “*Liquidated Damages*” means sums paid to Performers in addition to such Performers’ initial compensation for services as a result of Employer’s violation of a working condition hereunder (e.g., meal Liquidated Damages).
- J. “*Loan-Out Company*”: The term “*Loan-Out Company*” means a corporation which is controlled by a Performer and which furnishes the Performer’s services to others.
- K. “*Looping*”: The term “*Looping*” means those audio recording services provided by an On-Camera Performer in the sound studio to correct, enhance or augment the audio portion of a Performer’s performance which was recorded during Principal Photography (as defined below).
- L. “*Material*”: The term “*Material*” means all products (audio or visual) derived from the recordation of the live-action performances of Performers, whether or not such performances are incorporated into the Interactive Program produced hereunder by Employer.

- M. *“Motion Picture Exhibition”*: The term “Motion Picture Exhibition” refers to the act of exhibiting Linear Program(s) in motion picture theaters before audiences.
- N. *“Overscale”*: The term “Overscale” means any compensation, paid to a Performer for services, which is greater than Scale for the applicable services (excluding Overtime and Liquidated Damages).
- O. *“Overtime”*: The term “Overtime” means sums paid to Performers in addition to such Performers’ initial compensation for services as a result of time worked beyond the regular workday (eight (8) hours for On-Camera Performers and four (4) hours for Off-Camera Performers).
- P. *“Performers”*: The term “Performers” means persons who speak, act, sing, or in any other manner perform whether on or off-camera as talent in Material for Interactive Programs.
- Q. *“Platform(s)”*: The term “Platform” refers to microprocessor-based hardware systems including but not limited to personal computers (e.g., IBM-compatible and Apple-compatible), and dedicated consoles (such as Sega, Nintendo, 3DO, Sony Playstations, Atari Jaguar and other similar machines), that utilize their respective compatible formats (such as floppy disks, CDs, DVDs, cartridges, or other such formats) to memorialize Interactive Programs for use by consumers.
- R. *“Principal Performer(s)”*: The term “Principal Performers” means: (i) Performers who are used on-camera who speak dialogue or portray a major part in the Program and are hired as Day Players, Three-Day Performers or Weekly Performers; (ii) singing and dancing soloists, duos and groups; (iii) stunt persons; (iv) puppeteers; and (v) Voice-Over Performers. Background Actors (as defined herein) are specifically excluded from the category of Principal Performers.
- S. *“Principal Photography”*: The term “Principal Photography” refers to the period of production when an Employer is video taping or otherwise recording On-Camera Performers in a substantial portion of the creative Material for an Interactive Program. *“Principal Photography”* does not include tests, auditions, pre-recording of Material occurring before the actual production of a Program, and any services which are customarily considered ancillary to the primary taping, photography or visual recordation of Material such as Retakes, Added Scenes, etc.
- T. *“Program”*: The term “Program” refers to the final version of a fully edited product for presentation to the viewer or user. An *“Interactive Program”* is the final version of a fully-edited Program which is Interactive (and which is not a Linear Program, as defined below) and which is presented on or through Interactive Media, notwithstanding any variations in such Program which may occur between Platforms or Remote Delivery methods. “Program” does not refer to the computer software code utilized in the digitization process, any type of electronic technology, patents, trademarks or any of the intellectual property rights of Employer.
- U. *“Promotional Program”*: The term “Promotional Program” means a specially-produced Program, the subject matter of which is “the making of” the applicable Interactive Program produced hereunder, which may include interviews, behind-the-scenes information, segments of the applicable Interactive Program, etc.
- V. *“Qualified Professional Performer”*: The term “Qualified Professional Performer” means a person who has had prior employment as a Performer at least once during the period of three years preceding the date of proposed employment hereunder.
- W. *“Retakes, Added Scenes, Etc.”*: are on-camera or off-camera services which are required by Employer in addition to Principal Photography in connection with a Performer performance such as Retakes, Added Scenes, work for soundtracks including Looping and dubbing, process shots, transparencies, trick shots, Trailers, including changes or additional shots of any of the foregoing to adapt an Interactive Program for Platforms or foreign versions.

- X. *“Reuse”*: The term “Reuse” means the incorporation of Material produced for Interactive Media under this Agreement in a Linear Program. The term “Reuse” also means the incorporation of Material produced for Interactive Media under this Agreement in another Program that is not covered under “Integration.
- Y. *“Scale”*: The term “Scale” means the minimum compensation payable to Performers for applicable services hereunder.
- Z. *“Singer(s)”*: The term “Singer” means a Performer who musically vocalizes, either alone or with other Singer(s), and who may also speak written lines.
 - (i) A *“Specialty Singer”* is a professional Singer employed as a solo or employed as part of a ‘name’ group;
 - (ii) A *“Contractor”* is a professional Singer who contributes services to Employer in addition to singing by assembling a group of three or more Singers for the production and is entitled to the additional compensation for such services as specified in Sections 19. A. and B. A Singer shall not be deemed a Contractor by virtue of assembling a group which is an established group or act.
 - (iii) *“Over-Dubbing”* or *“Multiple Tracking”* occurs when a Singer re-records over the Singer’s original track containing the same Material as recorded on the original track.
 - (iv) *“Sweetening”* occurs when a Singer records a new track containing new or variant Material over the Singer’s original track.
 - (v) *“Stepping Out”* occurs when a solo or duo is asked by the Employer to sing during a recording session in addition to his/her performance within his/her group.
- A.A. *“Stand-In”*: Performers who are engaged by the company to substitute for members of the cast during rehearsal. Stand-ins shall not be required to memorize any material or supply any specific wardrobe.
- B.B. *“Stunt Coordinator”*: The term “Stunt Coordinator” means a trained, qualified professional stunt person who plans and supervises the execution of stunts on the set while such stunts are being videotaped or photographed.
- C.C. *“Three-Day Performer”*: The term “Three-Day Performer” means a Principal Performer employed for three (3) consecutive days, other than a Singer, Dancer, Stunt Performer or Airplane Pilot.
- D.D. *“Trailer”*: The term “Trailer” means a short audio and/or visual presentation used to promote the Interactive Program and which may include excerpts therefrom.
- E.E. *“Total Applicable Base Compensation”*: The term “Total Applicable Base Compensation” means the base amount on which additional fees are calculated to determine payments due Principal Performers for Remote Delivery and/or Integration as specified in Section 19.C.
- F.F. *“Voice-Over Performer”*: The term “Voice-Over Performer” means a Performer who provides off-camera narration or other vocal services (except singing) for Interactive Programs.
- G.G. *“Weekly Performer”*: The term “Weekly Performer” means a Principal Performer employed on a weekly basis.

4. RECOGNITION, RULES AND REGULATIONS

AFTRA agrees and represents that it is and will continue to be an open union, and will admit to and retain in membership all eligible Performers who an Employer may engage, except Performers suspended or expelled by AFTRA.

AFTRA warrants and agrees that it represents, and will continue to represent for the duration of this Agreement, a majority of the Performers engaged by the Employer for the production of Material for Interactive Media. Said bargaining unit is without prejudice to either party. Employer recognizes AFTRA as the exclusive collective bargaining agent for Performers for the purposes stated herein and agrees that during the term of this Agreement, all Performers employed or otherwise engaged by Employer for the production of Interactive Programs (except as specified in Section 6) will become members of AFTRA in good standing in accordance with the provisions of Section 13 of Article I. Employer further recognizes that members of AFTRA must abide by AFTRA's Constitution, By-laws, Rules and Orders, and the obligations thereof and that the engagement is subject to such rules. AFTRA agrees that it has no present rule requirement, or obligation upon its members, and during the term of this Agreement will make no future rule, requirement or obligation which is in derogation of this Agreement. AFTRA agrees not to impose unreasonable entrance fees or dues upon its members. Whenever necessary for the Employer's purposes, AFTRA agrees to qualify members within 24 hours after notice from the Employer.

5. REASON FOR CODE

This Agreement represents the minimum wages and working conditions for Performers in the production and use of Material for Interactive Programs, thus ensuring more stable, harmonious and ethical conditions in the industry for Performers and Employer.

6. APPLICATION

This Agreement shall not apply to the following:

- A. Interactive Programs consisting substantially of film;
- B. Interactive Programs consisting substantially of animation; provided that such animation is of a style and format traditionally covered by The Screen Actors Guild ("SAG"), e.g., cartoons that have a story line and which involve characters that are brought to life through voices. However, included in this AFTRA Agreement are computer graphic animation and/or video graphic animation and/or tape video animation that portray characters for purposes of a microprocessor-based game, which are to be manipulated by the user in a game-type setting;
- C. Any film production wherein more than half of which is made up of excerpts or whole Programs that were produced under a SAG agreement.

7. TERM OF AGREEMENT

The term of this Agreement shall commence from January 1, 2010 and remain effective through March 31, 2011. In the event either party has not served appropriate timely notice of termination for the expiration date above, the Agreement shall be extended on a day-to-day basis until sixty (60) days after either party serves written notice of termination on the other; provided, that if AFTRA serves such notice to Employer during the production of an Interactive Program, then such sixty (60) period will be extended with respect to such Interactive Program only until Employer has completed production of such Interactive Program.

8. GEOGRAPHICAL JURISDICTION

The terms and conditions of this Agreement apply to the production of Material for Interactive Media in the United States, its territories and possessions, or anywhere else in the world for which the Performers are engaged in the United States by Employer.

9. EMPLOYER'S DUTIES

- A. Employer will not enter into any agreement with or employ any Performer for the production of Material for Interactive Media upon terms and conditions less favorable to the Performer than those set forth in this Agreement.

- B. No waiver by any Performer of any provisions of this Agreement shall be effective unless the written consent of AFTRA to such waiver is first obtained.
- C. Nothing in this Agreement shall be deemed to prevent any Performer from negotiating for and/or obtaining from Employer better terms than the minimum terms provided for herein.
- D. Employer shall notify the AFTRA office no later than the time of hiring or forty-eight (48) hours in advance of the initial session, whichever is later, of the names of Performers to be used in the production of Material for Interactive Media, except where the circumstances do not allow sufficient time to give such notice. It shall be the duty of the Employer (to the extent Employer has not received clearances from AFTRA for specific Performers) to ascertain if each Performer is a member of AFTRA in good standing by examining the AFTRA membership card of each member of the cast at the first session and to notify the local AFTRA office of the name of any person failing to present a valid paid-up membership card. Such notice shall be given to AFTRA immediately following the first session, or if the AFTRA office is closed at that time, such notice shall be given to the AFTRA office as soon as possible on the following work day.
- E. Nothing herein shall obligate any person, film or corporation which may be affiliated with Employer (including but not limited to parent and affiliated corporations) to either comply with, negotiate with or become signatory to this AFTRA Agreement or any other AFTRA Code or other agreement of a controlled, allied or affiliated union.

10. CLEANLINESS

Consistent with their obligations under law to provide a safe and healthy work environment, to the extent that production facilities or equipment utilized by the Employers are within the Employers' control, effective July 1, 2005, the Employers will make good faith efforts to ensure the cleanliness of such facilities and equipment.

11. NOTICE TO AFTRA

Effective July 1, 2005, the Employer shall notify AFTRA not less than five (5) days before the first scheduled recording session in connection with a new videogame or interactive program, provided as follows: In recognition of the facts that programs often are highly confidential and proprietary and that employers may be subject to confidentiality limitations imposed by customers, the requisite notice may identify the videogame or program by a fictitious name rather than by its actual name. Upon public disclosure of the videogame or program, the Employer will notify AFTRA in writing of the actual name of the videogame or program.

12. ADMISSION TO PREMISES

Any authorized representative of AFTRA shall be admitted to the premises of the Employer or where the rehearsal or production of Interactive Programs takes place, at any reasonable time and on reasonable advance notice to check the performance by the Employer pursuant to this Agreement subject to product security or clearance restrictions; such checking shall be done so as not to interfere with the conduct of Employers business.

13. UNION SECURITY

Until and unless the Union Security provisions of the Labor Management Relations Act, 1947, as amended, are repealed or amended so as to permit a stricter Union Security clause, it is agreed that during the term of this Agreement, Employer will employ and maintain in Employer's employ only such Performers covered by this Agreement who are members of the American Federation of Television and Radio Artists in good standing or those who shall make application for membership on the thirtieth (30th) day following the beginning of employment hereunder or the date of execution of this Agreement, whichever is later, and thereafter maintain such membership in good standing as a condition of employment. It is understood and agreed that notwithstanding the foregoing, nothing in this Agreement will be construed as preventing Employer from hiring non-AFTRA members in accordance with the Taft-Hartley Act to perform in Interactive Programs. For the purpose of this section "good standing" shall mean the payment of uniform initiation fees and periodic dues.

In the event that said Act is repealed or amended so as to permit a stricter Union Security clause, the above provision shall be amended accordingly. The provisions of this paragraph are subject to said Act.

It is understood that it would be impossible to accurately fix the actual damages suffered by AFTRA by reason of a breach by an Employer of the provisions of this Section 13. It is therefore agreed that the Employer will pay to AFTRA, as Liquidated Damages, the sum of Five Hundred Dollars (\$500) for each breach by the Employer of the provisions of this Section 13. Any breach of the provisions of this Section 13 may be subject to arbitration between AFTRA and the Employer. The hiring by the Employer of a Performer in violation of the provisions hereof shall be deemed a single breach, regardless of the number of days of employment involved in the hiring; but each separate hiring of the same person in violation hereof shall be deemed a separate breach.

14. PREFERENCE OF EMPLOYMENT

- A. In recognition of the services performed by professional Performers, Employer agrees that in the hiring of Weekly Performers, Three-Day Performers, Day Players, Singers, Dancers, Stunt Persons, Puppeteers, and Background Actors employed for the day for work to be performed within the 300-mile, 75-mile or 50-mile zone as the case may be, referred to in Subsection C. of this Section 14 (*“Preference Zone”*), preference will be given to Qualified Professional Performers in each such Preference Zone who are reasonably and readily available in such zone.
- B. The obligation of the Employer to give preference to Qualified Professional Performers shall require the employment of a Qualified Professional Performer in the hiring of a Performer employed as a Day Player, Weekly and Three-Day Performers, unless no Qualified Professional Performer of the type required is reasonably and readily available to the Employer through the use of the present hiring practices generally and customarily followed by the Interactive Media industry. If a Qualified Professional Performer is reasonably and readily available to the Employer for employment in the locality where the Employer production facility is based, he/she shall be deemed available regardless of the place within the 300-mile, 75-mile or 50-mile Preference Zone, as the case may be, at which the services are to be performed.
- C. For the purpose of this Section 14, the preference zones are:

	<u>CITY</u>	<u>ZONE</u>
1	Atlanta	75
2	Boston	75
3	Chicago	300
	<u>CITY</u>	<u>ZONE</u>
4	Cincinnati	75
5	Cleveland	75
6	Columbus/Dayton	75
7	Dallas/Fort Worth	75
8	Denver	75
9	Detroit	300
10	Hawaii	75
11	Houston	75
12	Indianapolis	75
13	Kansas City/Omaha	75
14	Kissimmee	75
15	Los Angeles	300
16	Louisville	75
17	Miami	75
18	Nashville	75
19	New Orleans	75
20	New York	300
21	Philadelphia	75
22	Phoenix/Tucson	75
23	Pittsburgh	75

24	Portland	75
25	Rochester	75
26	San Diego	75
27	San Francisco	75
28	Seattle	75
29	St. Louis	75
30	Twin Cities	75
31	Washington/Baltimore	300
32	75 Miles from any new Local Office of AFTRA	
33	50 Miles from any production location site utilized by Employer in the United States	

For purposes of this Section 14, the above Los Angeles zone is the area within the radius of 300 miles from the intersection of Beverly Boulevard and La Cienega Boulevard in Los Angeles California; the above New York 300-mile zone is the area within a radius of 300 miles from the center of Columbus Circle in New York; the above 75-mile zones are the areas within the radius of 75 miles from the center of the designated city or the location of the AFTRA Local Office, whichever the case may be; and the 50-mile zone is the area within the radius of 50 miles from such applicable production location site.

D. There shall be automatically excluded from the provisions of this Section 14, the following:

1. Members of a group which is recognized in the trade or by a significant segment of the public as a “name” specialty group;
2. A person portraying himself/herself, or persons portraying themselves; the exception will apply in effect to important, famous, well-known or unique persons of special skills or ability who portray themselves;
3. Military or other governmental personnel, where restrictions prevent use of non-military or non-governmental personnel, as the case may be, in restricted areas or in the handling of governmental property or equipment; however, the use of military or other governmental pilots or aircraft shall not be the subject of an automatic waiver, but the facts shall be presented to AFTRA and waivers will be granted in accordance with the previously established custom in the Interactive and entertainment industries;
4. Persons having special skills or abilities, or special or unusual physical appearances where such Performers having such required skills or abilities or physical appearances are not reasonably or readily available to the Employer through the use of hiring practices generally and customarily followed by the industry in the employment of such Performers;
5. The first employment within the Preference Zone of a person with respect to whom the employer presents in writing to AFTRA facts showing that the employee: (i) has had a sufficient training and/or experience so as to qualify for a career as a professional Performer, and (2) that such employee intends to pursue the career of a Performer and intends to be currently available for employment in the industry;
6. Children under the age of eighteen;
7. The owner of special or unique vehicles or equipment, or an operator appointed by the owner if such vehicle or equipment is not available to the Employer without the employment of the owner or such operator.

If a Performer is employed under one or more of the exceptions provided for in Subsection 14.D, above, the obligation of the Employer to give preference to Qualified Professional Performers in the cases provided in Subsection 14.A, above, shall nevertheless be applicable to any subsequent employment of such Performer by Employer.

Employer agrees to promptly report to AFTRA each hiring under the provision of this Subsection D together with the reasons why the person employed comes within such provision.

A joint Employer-AFTRA Committee shall be appointed to resolve claims arising under this Section 14 between Employer and AFTRA.

- E. Nothing contained in this Section 14 shall alter or modify Employer's exclusive right to cast any and all Performers performing services for Employer.
- F. It is understood that it would be impossible to accurately fix the actual damages suffered by AFTRA by reason of a breach by Employer of the provisions of this Section 14. It is therefore agreed that the Employer will pay to AFTRA, as Liquidated Damages, the sum of Five Hundred Dollars (\$500) for each breach by the Employer of the provisions of this Section 14. The hiring by Employer of a Performer in violation of the provisions hereof shall be deemed a single breach, regardless of the number of days of employment involved in the hiring; but each separate hiring of the same person in violation hereof shall be deemed a separate breach.
- G. An alleged breach of this Section 14 is subject to arbitration between AFTRA and Employer.

15. PEOPLE COVERED

No services of any Performer are excluded from the scope of this Agreement unless specifically waived by AFTRA; however, excluded from this provision are: (i) instrumental musicians performing as such; (ii) executive officers or key employees of the sponsor delivering institutional messages as that term is understood in the industry; and (iii) skilled technicians when the context of the script requires special understanding and expertise which cannot be realistically portrayed or narrated by the Performer. AFTRA reserves the right to review these exceptions in the event utilization becomes excessive.

16. RIGHTS

- A. In consideration of the Total Applicable Base Compensation paid hereunder, Employer will have the right to exploit the results and proceeds of Principal Performers' services in the Program for which the Performer was employed in all Interactive Media as defined in Section 3.F(i) and, if Employer pays the additional compensation specified in Section 19.C, Employer's rights shall include Remote Delivery and/or Integration as defined in Section 3.D and 3.F(ii) above. It is understood and agreed that Employer will have all of the foregoing rights, without payment of any additional compensation, with respect to the results and proceeds of the services of Performers who are not Principal Performers.
- B. Employer also will have right, without payment of any additional compensation, to:
 - (i) use Interactive Material for reference, file, private audition purposes, and for customary industry promotional purposes (e.g., at sales conventions and other events within the Interactive and entertainment industries);
 - (ii) use and give publicity to the Performer's name and likeness, photographic or otherwise (including the use of stills and lifts in product packaging and in print) to advertise and promote the applicable Interactive Program, including the use of excerpts of Interactive Programs at point-of-purchase to promote the sales of Interactive Programs.

17. REUSE OF MATERIAL

1. Linear Programs

- A. Employer shall not reuse Interactive Material produced hereunder containing the results and proceeds of a Performer's performance in Linear Program(s) without separately bargaining with the individual Performer appearing therein and reaching an agreement therefor. The foregoing requirements shall be applicable to a Performer only if the Performer is recognizable and to stunts only if the stunt is identifiable, and shall not be applicable to Background Actors
- B. The minimum payable to a Performer for the Reuse of any portion of an Interactive Program in a Linear Program shall be AFTRA Scale for the field in which the Interactive

Material is Reused (broadcast television, cable, etc.) in accordance with the applicable AFTRA Code unless compensation for such other use is provided for herein.

AFTRA may, in its discretion, grant waivers of the requirements of this Section 15 with respect to the Reuse of videotape and sound track in public service, educational and like Programs, and will follow a liberal policy in granting such waivers.

- C. If Employer fails to bargain separately with the Performer as provided herein, or if Employer and the Performer bargain but are unable to reach an agreement, consent for such Reuse shall not be deemed to have been given by the Performer. In the case of violation of the foregoing, the Performer shall be entitled to damages for such unauthorized Reuse of his/her performance equivalent to three (3) times the amount originally paid the Performer for the number of days of work covered by the Material actually Reused as well as the minimum fees, if any, applicable to the field in which the Material is exploited (i.e., broadcast television; radio, etc.). In lieu of accepting such damages, however, the Performer may elect to arbitrate the claim as provided hereunder.
- D. If Employer is unable to find a Performer within a reasonable time for the purpose of the bargaining pursuant to this Section 17, Employer shall notify AFTRA within a reasonable period of time to allow AFTRA the opportunity to locate such Performer. If AFTRA thereafter is unable to notify Employer of a telephone number or an address at which the Performer may be contacted within a reasonable time to allow the Employer to comply with deadlines, Employer may reuse the Material without a breach.

2. Interactive Programs

- A. Employer shall not Reuse Interactive Material produced hereunder containing the results and proceeds of a Performer's performance in another Interactive Program (one for which he/she was not employed) except as set forth in Paragraph 3.D. Integration, without separately bargaining with the individual Performer seen or heard therein pursuant to this paragraph and paragraph 1.A. above.
- B. The minimum payable to a Performer for the Reuse of any portion of an Interactive Program in another Interactive Program not covered by Integration, shall be no less than the applicable minimum for such category of Performer.

18. TRAILERS; PROMOTIONS

- A. Employer shall have the right to make (or cause to be made) Trailers and/or Promotional Programs, for the purpose of advertising and promoting the Interactive Program. A Performers services in any such Trailer or a Promotional Program twelve (12) minutes in length shall not require the payment of additional compensation (other than compensation for services, overtime or any compensation otherwise due hereunder) if the recordation of such Trailer or Promotional Program occurs during the Performer's term of employment in connection with the applicable Interactive Program hereunder. Otherwise, the applicable Scale set forth in this agreement shall be the minimum compensation for services in connection with such Trailers. No additional compensation shall be payable for the use of any portion of an Interactive Program in a Trailer or Promotional Program where such Trailer or Promotional Program is utilized to promote such Interactive Program.

Effective July 1, 2005, each Principal Performer seen or heard in recorded material incorporated from a game into a Promotional Program exceeding twelve (12) minutes in length shall be entitled to no less a single session payment at the applicable day performer minimum for the use of such footage and soundtrack.

- B. No use of a Performer's services in a Trailer as herein defined may be used as an endorsement of any service or product other than the Interactive Program(s) for which the Performer was employed to render services. References to the hardware, Platforms or Remote Delivery systems upon which the Interactive Program operates or references to other Interactive Programs shall not be deemed an endorsement of a service or product in violation of this Subsection 18.B if the Interactive Program is clearly identified by its title in such promotion to the consumer.

- C. If any Promotional Program is a Linear Program exhibited or transmitted to the viewer as specified in Section 3.G. ii. (a) - (c), Employer shall pay all recognizable Principal Performers therein an additional payment equal to the Day Player minimum hereunder for such use.

19. COMPENSATION

MINIMUM SCALE FOR PRINCIPAL PERFORMERS:

A. <u>On-Camera Performers:</u>	<u>1/1/10</u>	<u>4/1/10</u>
1. Day Performers (including solo/duo singers)	\$781.75	\$801.30
2. 3-Day Performers (including solo/duo singers)	1,977.60	2027.05
3. Weekly Performers (including solo/duo singers)	2,713.00	2,780.85
6 Day Overnight Location	2,983.90	3,058.50
4. Group Singers 3-8 (4-hour day)	741.60	760.15
Group Singers 9+ (4-hour day)	646.85	663.00
Contractor 3-8	+50%	+50%
Contractor 9+	+100%	+100%
(a) Over-Dubbing		
33 1/3 % of above applicable rate without limitation as to the number of tracks.		
(b) Sweetening		
100% of the applicable rate (with or without Over-Dubbing), without limitation as to the number of tracks.		
(c) Stepping-Out		
(i)	If a solo or duo is called upon to Step Out of a group to sing up to fifteen (15) cumulative bars during a session, the solo/duo shall be paid an adjustment of fifty percent (50%) of the solo/duo rate in addition to the appropriate group rate for that day.	
(ii)	If a solo or duo is called upon to Step Out of a group to sing sixteen (16) or more cumulative bars, or remain more than one (1) hour after the group has been released, to perform a solo or duo of any length, the solo/duo shall be paid the full solo/duo rate in addition to the appropriate group rate for that day.	
(iii)	Any member of a group who Steps Out to perform as part of a smaller group to sing over four (4) consecutive bars shall be paid at the smaller group fee for that day. Such re-classification shall not operate to reduce the size of the overall group with respect to fees payable to the remainder of the group.	
5. <u>Dancers:</u>	<u>1/1/10</u>	<u>4/1/10</u>
Rehearsal Days Only	\$459.40	\$470.90
Work Days (no rehearsal)		
Solo/Duo	781.75	801.30
Group 3-8	684.95	702.05
Group 9+	598.45	613.40
Weekly Option (includes rehearsals)		

Solo/Duo	2513.20	2576.05
Group 3-8	2303.10	2360.70
Group 9+	2,095.00	2147.40

B. Off-Camera Performers:

6.	<u>1/1/10</u>	<u>4/1/10</u>
Day Performer (Up to 3 voices/4-hour day)	\$781.75	\$801.30
Day Performer (1 voice/1 hr)	390.90	400.65
Additional Voices (each)	260.60	267.10
6-10 Voices/6-hour day	1563.55	1602.65
7. Singers (4 hour day)		
Solo/Duo	781.75	801.30
Hourly Rate*	390.90	400.65
Group Singers 3-8	414.05	424.40
Group Singers 9+	359.45	368.45
Group Hourly Rate*	231.75	237.55
Contractor 3-8	+50%	+50%
Contractor 9 +	+100%	+100%

Over-dubbing, Sweetening and Stepping-Out for Off-Camera Singers (same as on-camera rates, see Subsections A.4.(a) - (c) above).

(*Once Employer engages Singers at hourly rate, no conversion to Day Player rates.)

C. Additional Compensation for Remote Delivery and Integration (see definitions page 2)

1. Employer shall pay Principal Performers the following for Remote Delivery and Integration rights in an Interactive Program:

A. Remote Delivery:

If acquired not later than 90 days after initial release of the applicable Program in Interactive Media, 100% (125% effective July 1, 2005) of the Total Applicable Base Compensation as specified below; otherwise, plus 10% thereof (135% effective July 1, 2005).

B. Integration:

If acquired not later than 90 days after initial release of the applicable Program in Interactive Media, 100% (125% effective July 1, 2005) of the Total Applicable Base Compensation as specified below; otherwise, plus 10% thereof (135% effective July 1, 2005).

The “Total Applicable Compensation” shall be the Performer’s actual salary for the total number of days or weeks employed, up to one hundred fifty percent (150%) of the minimum daily or weekly scale, as detailed in Subsection A. or B., above, for the total employment period, excluding overtime and liquidated damages, if any.

D. Half-Day Employment (Rehearsals)

Employer may engage a Performer (except Dancers, Background Actors, Stunts, and off-camera performers) for up to four (4) consecutive hours of rehearsal time (as defined in Article II, Section 18) per day at 65% of the Day Player rate pro-rata, or 65% of the Performers pro-rata single day rate, whichever is higher, for rehearsals as follows:

- (1) Rehearsal time (no recordation of Performers) of 4 consecutive hours or less, provided a firm date for the subsequent workday(s) is given at the time of booking.
- (2) Call times, except for travel, are restricted to:
 - (a) Morning Call - no later than 8:00 a.
 - (b) Afternoon Call - no earlier than 1:00 p.m.
 - (c) Evening Call - any four (4) consecutive hours provided work ends by 12:00 a.m.

Any extension of the half-day Rehearsal beyond four hours in a single day is subject to the Performer’s consent, either at the time of extension or in advance, and shall require payment of an additional 35% of the daily rate for such day, whether four additional hours or less are worked. Any “Overtime” beyond eight (8) hours of work will then be computed at time and one-half or double time, as specified in Article II, Section 6. All required meal periods will be observed.

For Three-Day Players or Weekly Performers, Employer may use the half-day rehearsal rate based only on the Day Player minimum.

E. <u>Background Actor Rates</u>	<u>1/1/10</u>	<u>4/1/10</u>
General Background Actors	\$133.90	137.25
Special Ability Actors and Stand-ins	167.90	172.10

The weekly salary for Background Actors employed by the week shall be five (5) times the minimum daily rates as specifically set forth above. Background Actors employed by the week are guaranteed a minimum employment of five consecutive days.

Any Background Actor who speaks atmospheric words, commonly known in the entertainment industry as “omnies”, is entitled to the basic wage for the particular call.

Upon request from Employer AFTRA will grant waivers regarding the employment of Background Actors on a per day basis. Such waiver will be considered when Employer is engaging a large number of Background Actors.

F. Atmospheric Voices

1. A Producer that employs at least ten (10) principal performers on a specific Interactive Program may hire performers to do “Atmospheric Voices” under the terms set forth below.
2. “Atmospheric Voices” shall be defined as voices for characters that (1) do not have more than 300 scripted words and (2) do not advance the principal storyline.
*
3. Under the condition set forth in F.1 above, a performer may be brought in to voice up to twenty (20) Atmospheric Voices in a single 4-hour session in exchange for the rate provided under 19.B of the AFTRA Interactive Media Agreement for Day Performers (up to 3 voices/4-hour Day).
4. Alternatively, under the condition set forth in F.1 above, a performer may be brought in to voice an unlimited number of Atmospheric Voices in a single 4-hour session in exchange for 200% of the rate provided under 19.B of the AFTRA Interactive Media Agreement for Day Performers (up to 3 voices/4-hour Day).
5. A performer (or his or her agent) must be notified in writing prior to engagement that the Producer shall be recording Atmospheric Voices, including whether the

* See Sideletter of Understanding regarding use of Atmospheric Voices on Page 49.

Producer is utilizing the twenty (20) voices or less option under F.3 or the unlimited option under F.4. If the above-required notice is not given, then all voices beyond the third voice recorded in that session shall be paid as “additional voices” as set forth in 19.B of the AFTRA Interactive Media Agreement.

- 6. A Performer may not record Atmospheric Voices and non-Atmospheric Voices in the same session.
- 7. The notifications regarding vocal stress and all other relevant terms of the contract shall apply equally to sessions for the recording of Atmospheric Voices.
- 8. Rates

	<u>1/1/10</u>	<u>4/1/10</u>
Up to twenty (20) Atmospheric Voices [300-word limit] (4-hour session)	\$781.85	\$801.30
Unlimited number of Atmospheric Voices (4-hour session)	1,563.50	1,602.60

20. NON-DISCRIMINATION POLICY

- A. The parties hereto reaffirm their commitment to a policy of non-discrimination and fair employment in connection with the engagement and treatment of Performers on the basis of sex, race, color, creed, national origin, age or disability, in accordance with applicable state and federal law; no inquiry shall be made with respect to a Performer’s marital status sexual orientation or national origin, creed, age or disability.
- B. Employer shall cast Performers in accordance with the above policy in all types of roles having due regard for the requirements of and the suitability for the role so that, for example, the American scene may be portrayed realistically. To that end, due regard shall be given to women, minorities, Performers with disabilities and seniors in all aspects of society. The parties agree that the Employer shall retain its exclusive creative prerogatives.

In furtherance of the foregoing, the Employer shall make good faith efforts to seek out and provide audition opportunities for women, minorities, Performers with disabilities and seniors in the casting of each production thereby creating fair, equal and non-stereotyped employment opportunities. Employer agrees to provide equal employment opportunities (including auditions) for women and men for Voice-Over roles having due regard for the requirements of and the suitability of such Performers for such roles.

- C. When applicable, and with due regard to the safety of cast, crew and other persons, women and minorities shall be considered for stunt doubling roles and for scripted and unscripted stunts on a functional non-discriminatory basis.

Employer shall make every effort to cast Performers with physical disabilities for scripted and unscripted stunts for which they are qualified and with due regard to safety, in roles portraying their particular disability such as wheelchair stunts or stunts involving the use of other adaptive devices, e.g., crutches, prostheses, etc. Where the stunt Performer doubles for a role which is identifiable as female and/or Black, Latin-Hispanic, Asian-Pacific or Native American and the race and/or sex of the double is also identifiable, Employer shall make every effort to cast qualified persons of the same sex and/or race involved. The Stunt Coordinator shall make every effort to identify and recruit qualified minority and female stunt Performers and stunt Performers with disabilities prior to the commencement of production.

- D. Special Considerations: All facilities under the control of or used on behalf of Employer in connection with the casting or production of Material for Interactive Programs including but not limited to dressing rooms, lodging, studios, locations (where feasible), sets, and transportation and access thereto, shall provide reasonable accommodations for Performers with disabilities and shall be suitable for the special needs and requirements of any Performers whether by reason of age or disability. For any role in which a deaf Performer is sought or cast, Employer shall provide, during the audition or throughout the

engagement certified or qualified interpreter(s) for the deaf (i.e. interpreter(s) qualified or certified in sign language or oral interpretation). With regard to Performers who are blind or visually impaired, Employer and such Performers shall make mutually acceptable provisions to make the script and/or sites available to the Performer in advance of auditions.

21. CONTRACTS WITH PERFORMERS

Every contract (whether written or oral) between Employer and any Performer shall be deemed to contain the following clauses:

“Notwithstanding any provision in this contract to the contrary, it is specifically understood and agreed by all parties hereto:

- A. That they are bound by all the terms and provisions of the 2010-2011 AFTRA Interactive Media Agreement.
- B. That should there be any inconsistency between said contract and the Agreement or the valid rules and regulations enacted by AFTRA not in derogation thereof, the Agreement and the rules and regulations of AFTRA shall prevail; but nothing in this provision shall affect terms, compensation or conditions provided for in this contract which are more favorable to Performers than the terms, compensation and conditions provided for in said Agreement.
- C. If the term of this contract is of longer duration than the term of the Agreement between AFTRA and the Employer, this contract shall be modified to conform to any agreements or modifications negotiated or agreed to in said Agreement, and the existence of this contract shall not prevent the Performer from engaging in any strike or obeying any of the lawful rules and regulations of AFTRA without penalty by way of damage or otherwise, subject to mutual cancellation or termination of this contract without penalty on either side.
- D. Performer represents and warrants that he/she is a member of AFTRA in good standing subject to and in accordance with Section 13 of this Article I and is subject to the rules and regulations of AFTRA.
- E. That the Performer is covered by the provisions governing the AFTRA Health and Retirement Funds.
- F. All disputes and controversies of every kind and nature arising out of or in connection with this contract shall be determined by arbitration in accordance with the procedure and provisions of said “Agreement.”

22. EXISTING CONTRACTS

The parties acknowledge that existing contracts between Performers and Employer entered into prior to the date of execution of this Agreement shall not be subject to the terms and conditions hereof.

23. INDIVIDUAL CONTRACTS

Except as otherwise herein expressly provided (including without limitation in Section 22 above), the minimum terms and conditions hereof shall be deemed incorporated into all individual contracts of employment in effect on the effective date hereof or thereafter executed, with respect to all services rendered on or after such effective date.

24. MINIMUM SCALE/TERMS

Employer agrees that it will make no contract with any Performer at terms less favorable to such Performer than those contained in this Agreement, and no waiver of any of the terms hereof shall be effective without the written consent of AFTRA. All Performers, whether employed at Scale or in excess of the minimum rates set forth herein, shall have the protection and benefits of the provisions and conditions set forth in this Agreement. Nothing herein shall prevent an individual

Performer from bargaining for more favorable terms and conditions in his/her individual contract than those accorded Performers hereunder.

25. PROHIBITION AGAINST CREDITING

No compensation paid to a Performer for his/her services in excess of the minimum may be credited against Overtime, Liquidated Damages or any other compensation otherwise due the Performer, however, nothing herein shall prevent Employer from bargaining with the Performer to allocate compensation payable to a Performer (other than Overtime and Liquidated Damages) which is greater than 200% of Scale to sums which may be otherwise due the Performer hereunder provided that the right to allocate is specifically set forth in the Performer employment agreement.

26. AFTRA MEMBER REPORTS; PERFORMER CONTRACTS

Employer shall have the option of utilizing AFTRA Member Reports at the time of hiring of Principal Performers and/or Background Actors in connection with Interactive Programs on a form similar to that attached to this Agreement as Exhibit A and incorporated herein, or to employ the same pursuant to individual contracts in forms approved by AFTRA. If Employer utilizes such Member Reports, it will be the duty and responsibility of each Performer to deliver a form initialed by the Employer to the local AFTRA office.

If Employer does not utilize Member Reports, Employer shall employ Scale Performers pursuant to individual contracts on a form approved by AFTRA (attached hereto as Exhibit C to this Agreement) which guarantees the Performers the minimum terms and conditions of this Agreement. No changes, alterations or additions may be made in such form except such changes as are more favorable to the Performer and as to which changes both Performer and Employer have given written approval on the contract. Copies of all such employment contracts shall be filed with the appropriate AFTRA office.

27. EVASION OF RESPONSIBILITY

Employer agrees that Employer will not knowingly, for the purpose of evading performance under this Agreement:

1. sublet or transfer responsibility hereunder to any third person;
2. transfer operations to any other place of origin or territory solely for the purpose of defeating or evading this Agreement;
3. use, lease or authorize others to use material for Interactive Media for any purpose or in any manner other than as permitted by this Agreement; or
4. use the terms of this Agreement for the purpose of defeating or evading the terms and conditions of the AFTRA National Code of Fair Practice for Commercial Radio Broadcasting, the AFTRA National Sustaining Radio Agreement, the AFTRA National Code of Fair Practice for Network Television Broadcasting, the AFTRA National Code of Fair Practice for Non-Broadcast/Industrial/Educational Recorded Material, or the AFTRA Television or Radio Recorded Commercials Contracts, as presently applied.

28. WAIVERS

AFTRA recognizes that the production, distribution and exhibition of Programs in Interactive Media is in its formative stages, and there may be uses of a nature not contemplated at the time the parties enter into this Agreement. AFTRA agrees to consider any special circumstances which warrant modification of any of the terms of this Agreement and to grant waivers to accommodate such productions, which waivers shall not be unreasonably withheld. Any request by an Employer for consideration for changes or waiver by AFTRA hereunder must be made in writing by advance notice to AFTRA to afford sufficient time to give proper consideration to such request. The parties acknowledge that fifteen (15) business days notice prior to the scheduled production of any Interactive Program shall be deemed sufficient time for purposes of evaluating such request.

29. WAIVER OF RIGHTS BY MEMBERS

The acceptance of consideration by a member of AFTRA under this Agreement shall not be deemed sufficient consideration to effect a waiver, release or discharge by such AFTRA member of such AFTRA member’s contractual rights under this or any other AFTRA agreement. Releases, discharges, notations on checks, cancellations, etc., and similar devices which may operate as waivers or releases shall be null and void to the extent provided for above without AFTRA’s prior written approval.

30. PRODUCTION STAFF

- A. Employer shall not utilize persons employed as members of Employer’s casting or production staff as Performers in any Program on which they also render any services on an Interactive Program without the express consent of AFTRA, however, AFTRA shall grant waivers on a reasonable basis in good faith to accommodate the legitimate production necessities of Employer.
- B. The following are exceptions to the above:
 - 1. Animal handlers (appearing in a scene in which they handle animals);
 - 2. Actor/directors, actor/writers, or actor/employers engaged by written contract prior to the commencement of Principal Photography of the Program;
 - 3. An “emergency” in the production which requires immediate response. Emergency is defined as a situation in which a member of the cast cannot perform or fails to report for work ready, willing and able to perform the duties assigned to such Performer hereunder.
- C. Violations of the foregoing prohibition shall require payment of Liquidated Damages, as follows:

Day Performer	\$300.00
Three-Day Performer	\$400.00
Weekly Performer	\$600.00

31. PAYMENTS

- A. Performers shall be paid not less than the minimum applicable fees due hereunder, in the legal tender of the United States not later than twelve (12) business days after services have been rendered. All checks issued to the Performer shall be delivered to the appropriate AFTRA office in the city in which the production occurs, unless Employer and a specific AFTRA local agree to a different method of distribution of payments.
- B. Liquidated Damages for Late Payment

The following cumulative payments shall be added to the compensation due and payable to the Performer for each day, beginning with the day following the day of default: Two Dollars and Fifty Cents (\$2.50) for each day’s delinquency up to thirty (30) days (excluding Saturday, Sunday, and holidays which the Employer observes). Thereafter, the Liquidated Damages payment shall cease unless either AFTRA or the Performer gives written notice to the Employer of the non-payment. In the event such notice is given and full payment including accrued Liquidated Damages is not made within twelve (12) working days thereafter, the Employer shall be liable for an immediate Liquidated Damages of Seventy-Five Dollars (\$75.00) plus further Liquidated Damages payments at the rate of Five Dollars (\$5.00) per day from the date of receipt of notice of non-payment which shall continue without limitation as to time until the delinquent payment together with all Liquidated Damages are fully paid. Such Liquidated Damages shall be in addition to any and all other remedies which AFTRA may have against Employer under this Agreement.

The above cumulative payments shall not apply in the following case:

1. Where a bona fide dispute exists as to the amount due and payable concerning which AFTRA has been notified promptly;
2. When an event of Force Majeure (as such term is generally understood, and not in the more limited sense in which the term is defined for other purposes in Section 45 below) intervenes;
3. Where Performer's services are provided by a Loan-Out Company, and he/she has failed to furnish to the Employer pertinent information required and all W-4 forms (provided however, that Employer has made such forms available at the production site);
4. Where there is no Loan-Out Company and a Performer has failed to furnish the Employer his/her W-4 form (provided, however, that Employer has made such forms available at the production); and
5. Where the Performer, having been furnished his/her contract on or before the day of his/her performance, fails to return the signed engagement contract promptly.

C. All Fees are Net

The minimum fees specified in this Agreement shall be net to the Performer. No deductions whatsoever may be made by Employer from Performers compensation except for deductions and withholding that are required by law, including but not limited to the Social Security and withholding taxes as specified below.

32. SOCIAL SECURITY, WITHHOLDING, UNEMPLOYMENT AND DISABILITY INSURANCE TAXES

All compensation paid to Performers covered by the Agreement for and in connection with the making and use of Programs for Interactive Media constitute wages and as such is subject to Social Security, withholding, unemployment insurance taxes and disability insurance taxes. Employer and any others who assume the obligation to make such payment shall also make the required payments, reports and withholdings with respect to such taxes.

Employers must honor a Performer's request that taxes be withheld over a longer payroll period (i.e., by a more favorable tax withholding schedule) to the extent Employer can do so without incurring liability therefrom as determined by Employer in accordance with its standard and customary practices. Employer shall attach appropriate forms for this purpose to Performer contract.

A W-4 form or an alternative form with appropriate IRS tax information for withholding purposes will be included in the standard union employment contract form.

33. SAFEGUARDS AGAINST VIOLATION

Employer shall furnish AFTRA written reports, under the same cover as checks for Performers' services, specifying: the details relevant to the Interactive Program produced; time of the production sessions; the title of the Interactive Program; names of Performers; complete time in rehearsal and video taping; gross fees payable to Performers. Standard form reports shall be promulgated by AFTRA by agreement with representatives of the Interactive industry.

34. AFTRA HEALTH AND RETIREMENT FUNDS

- A. With respect to services performed under this Agreement (including all services such as rehearsal performed in connection therewith but not including Liquidated Damages imposed on Employer), the Employer shall pay to the American Federation of Television and Radio Artists Health and Retirement Funds (the "H&R Funds") a sum equal to Fifteen Percent (15.0%) of the gross compensation due each Performer for such services without any deductions whatsoever, whether pursuant to oral or written contracts, including talent agent's commission, if any.

No Producer shall be obligated to make H&R contributions on behalf of any individual performer on gross compensation in excess of \$125,000 for covered services paid by that Producer per game franchise in a calendar year.

The aforesaid sum shall be used solely:

- (a) For the purpose of providing pension benefits for eligible Performers under this Agreement;
- (b) For the purpose of providing welfare benefits for eligible Performers under this Agreement, and at the discretion of the Trustees, for their families; and
- (c) For the incidental expenses connected with the establishment and administration of the AFTRA H&R Funds.

The aforesaid sum may also be used to provide occupational disability benefits to Performers who suffer disability arising out of or in the course of employment in rendering services within the jurisdiction of AFTRA. The Trustees of the AFTRA H&R Funds are directed to continue such benefits to Performers, whether or not eligible for other benefits of the AFTRA H&R Funds, so long as the Trustees determine in their discretion that such benefits can be provided to such Performers without impairing the financial capacity of the AFTRA H&R Funds to continue or expand the existing plan of benefits.

- B. The parties agree that the AFTRA H&R Funds shall be Trust Funds and shall be administered under the AFTRA Pension and Welfare Funds Agreement and Declaration of Trust, dated November 16, 1954, as Amended.
- C. Employer and AFTRA hereby ratify and confirm the action of the Trustees of the AFTRA H&R Funds in amending the existing Agreement and Declaration of Trust, dated November 16, 1954, to provide coverage for the benefit of AFTRA employees and employees of the AFTRA H&R Funds upon terms and conditions established by the Trustees. The Trustees of the Plans shall be authorized to allocate contributions made hereunder between the Health Fund and the Retirement Fund in amounts (expressed in dollars or percentages) that they may consider necessary and appropriate.
- D. Employer shall furnish the Trustees the information pertaining to the names, job classifications, social security numbers and wage information, as may be reasonably required, for the proposed low cost and efficient administration of the AFTRA H&R Funds. Employer agrees to furnish a remittance report and to pay to the appropriate AFTRA H&R Funds office the contribution specified above in Subsection 34.A. Not later than twelve (12) business days (or a later date if agreed to by AFTRA) after the date payments are due as set forth above.
- E. These provisions of the AFTRA H&R Funds are in addition to (and not in substitution in whole or in part for) any existing pension and/or welfare funds covering any of the Performers under this Agreement; and no Performer shall lose, in whole or in part, any of his/her rights or privileges under such other pension and/or welfare funds by virtue of receiving or being entitled to receive benefits under the AFTRA H&R Funds; nor may any payment, rights or privilege available to a Performer under the AFTRA H&R Funds be credited to any payment, rights or privilege under any other pension and/or welfare funds and vice versa.
- F. No part of the Employers contributions for the Performer's benefits from the AFTRA H&R Funds (i) may be credited against the Performer's Overscale compensation or against any other benefits or emoluments whatsoever that they may be entitled to, no matter what form such other benefits or emoluments may take; or (ii) are subject to any agency commission or other deduction.
- G. With respect to any contract with a Loan-Out Company for the services of a Performer payments into the AFTRA H&R Funds (hereafter "Contributions") shall be governed by the following:

1. In its contract with the Loan-Out Company, Employer shall state separately the compensation applicable to services covered by the Agreement.
 2. If other than AFTRA-covered services are involved and an amount is allocated to such other services, the Employer shall notify AFTRA of the amount allocated to the AFTRA-covered services. If AFTRA disputes the amount allocated to the AFTRA-covered services, the parties will discuss what the appropriate allocation of such compensation shall be, giving substantial consideration in resolving the dispute to the Performer's "customary compensation". If, after such discussions, AFTRA does not agree on the appropriate allocation, then either party may submit the matter, as it relates to the Contributions only, to arbitration in accordance with the provisions of this Agreement.
 3. Contributions shall be based on the amount the Employer pays the Loan-Out Company for furnishing the Performer's AFTRA-covered services.
 4. The Employer shall have the obligation to make the contributions directly to the AFTRA H&R Funds, whether a contract for Performers services is with the Performer or with the Performer's Loan-Out Company.
 5. If, prior to the date on which Employer assumed the obligation to make the Contributions directly to the AFTRA H&R Funds, a Loan-Out Company has failed to make the applicable health and retirement contributions on behalf of the loan-out Performer pursuant to the provisions of any applicable AFTRA agreement, Employer shall not be liable for such Contributions.
- H. Claims against the Employer for AFTRA Health and Retirement Contributions on behalf of Performers borrowed from a Loan-Out Company, or claims against the Employer on behalf of Performers employed directly by the Employer, must be brought within two (2) years from the date of mailing of the compensation remittance report covering such Performers. Any claim for Contributions not brought within the two-(2) year period referred shall be barred.
- I. Wherever the phrase "Agreement and Declaration of Trust" is used in this Agreement, the Trustees shall have the right in their discretion to construe said phrase to also mean the plural.

35. RIGHT TO RESPECT PICKET LINES

The Employer will not discriminate against any individual AFTRA Performers for refusal to cross a lawful picket line which is established at the premises of Employer as the result of a lawful strike, authorized by responsible AFTRA officers having the right to do so (at the appropriate local or national level).

36. SEPARABILITY

If any clause, sentence, paragraph or part of this Agreement or the application thereof to any person or circumstances, shall be adjudged by a court of competent jurisdiction to be invalid such judgment shall not affect, impair, or invalidate the remainder of this Agreement or the application thereof to any other person or circumstances, but shall be conflicted in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person or circumstances involved. It is hereby declared to be the intent that this Agreement would have been accepted even if such invalid provision had not been included.

37. PRODUCTION PROSECUTED

In the event that the Material in which the Performer has performed hereunder is the subject of any civil or criminal prosecution, Employer agrees to defend the Performer and to pay all reasonable documented expenses, charges and judgments so incurred. This Section does not apply to a case where the prosecution results from Material furnished by the Performer or acts done by the Performer without authorization of the Employer or beyond the scope of his/her employment.

38. NO STRIKE - NO LOCKOUT

So long as the Employer performs this Agreement, AFTRA will not strike against the Employer as to Performers covered by this Agreement in the field covered by this Agreement. To the extent AFTRA has agreed not to strike, it will order its members to perform their contracts with the Employer. This and the following paragraph shall apply only to Employers who sign this Agreement. Employer and AFTRA agree that there will be no stoppage of work pending any arbitration and award, and the parties agree that all judgments rendered pursuant to arbitration brought in accordance with the procedures specified hereunder will be binding upon them.

39. TRANSFER OF RIGHTS - ASSUMPTION AGREEMENT

Upon the sale, transfer, assignment or other disposition by Employer of any Program produced by it hereunder, the Employer shall not be responsible to AFTRA or to any AFTRA members for any payments thereafter due with respect to the use of such Programs or for a breach or violation of this Agreement by such transferee, if AFTRA approves the financial responsibility of such transferee in writing (which consent shall not be unreasonably withheld), and if the Employer in its agreement with such transferee has included a provision substantially in the following form:

“ _____ ” (“Transferee”) hereby agrees with _____ (“Employer”) that all Programs covered by this agreement are subject to the 2010-2011 AFTRA Interactive Media Agreement. Transferee hereby agrees expressly for the benefit of AFTRA and its members affected thereby to make all payments of fees as provided in said Agreement and all Social Security, withholding, unemployment insurance and disability insurance payments and all appropriate contributions to the AFTRA H&R Funds required under the provisions of said Agreement with respect to any and all such payments and to comply with the provision of said Agreement with respect to the use of such Program and required records and reports. It is expressly understood and agreed that the rights of Transferee to use such Program shall be subject to and conditioned upon the prompt payment to the Performers involved of all compensation as provided in said Agreement, and AFTRA, on behalf of the Performers involved, shall be entitled to injunctive relief in the event such payments are not made.”

The Employer agrees to give written notice by mail to AFTRA of each sale, transfer, assignment or other disposition of any Program which is subject to this Agreement within thirty (30) days after the consummation of each sale, etc., and such notice shall specify the name and address of the purchaser, transferee or assignee.

40. UNION STANDARDS

A. Employer will neither engage in the production of an Interactive Program or any part thereof as to which one or more Performers are employed by a person not a signatory to this Agreement or a Letter of Adherence herein (a “non-signatory”), nor acquire an Interactive Program or any part thereof as to which one or more Performers were employed by a non-signatory unless, in each case, the Employer determines after reasonable investigation that such Performers have been and will be either (1) afforded the wages, hours, working conditions and other economic benefits provided in this Agreement; or (2) afforded wages hours, working conditions and other economic benefits having substantially equivalent economic cost to such non-signatory. The Employer shall upon written request from AFTRA, report to AFTRA the name of such non-signatory, the number of Programs to be recorded and other pertinent data to enable AFTRA to administer this Agreement. Notwithstanding anything in the foregoing to the contrary, this Section 40 shall not apply to Interactive Programs or any part thereof: (i) which exist prior to the execution of this Agreement, or (ii) have not been acquired by Employer in an effort to subvert the intent of this Agreement; provided that AFTRA reserves the right to reasonably inquire about such acquisitions to determine both their frequency and Employer’s intent.

B. If the Employer obtains an agreement substantially in the form below from such non-signatory, Employer shall be deemed to have observed the provisions of Subsection 40.A:

It is hereby agreed by _____ [Name of Non-Signatory Employer]
that all Performers as defined in the AFTRA 2010-2011 AFTRA Interactive Media

Agreement be afforded either (1) the wages, hours, working conditions and other economic benefits provided in said Agreement; or (2) wages, hours, working conditions and other economic benefits having a substantially equivalent economic cost to

[Name of Non Signatory Employer].”

- C. AFTRA reserves the right, pursuant to Section 41 to submit to arbitration Employer’s failure to observe the provisions of Subsection 40.A, as herein amended, unless such failure is isolated or inadvertent.

41. ARBITRATION

In the event of any controversy or dispute arising with respect to this Agreement or the interpretation or breach thereof between AFTRA and the Employer or a Performer and the Employer, AFTRA and the Employer agree, in good faith, promptly to attempt to settle such dispute amicably by conciliation. In the event that they are unable to do so, any such controversy or dispute shall be settled in accordance with the Voluntary Labor Arbitration Rules then prevailing of the American Arbitration Association located with the State of California by a single Arbitrator chosen in accordance with such rules and as specified below.

A. Conciliation Procedures:

1. Whenever any dispute arises which is arbitrable under this Agreement, a representative of AFTRA and a representative of Employer shall meet within ten (10) business days after a request is made in writing (or, if the parties’ schedules do not permit a meeting within such time period, as soon thereafter as reasonably practicable), for conciliation by either party to the other. The filing of a formal claim by AFTRA or Employer for arbitration shall be deemed an automatic request for prior conciliation. If the parties are not able to reach agreement by conciliation after such good faith attempts, a claim for arbitration may be filed. Claims for arbitration hereunder shall be filed not later than the later of:
(i) six (6) months after the occurrence of the facts upon which the claim is based;
or (ii) within six (6) months after the Performer or the Union, or the Employer, as the case may be, has had a reasonable opportunity to become aware of the occurrence. Otherwise, such claims shall be deemed waived.
2. The time period for filing claims shall be tolled while conciliation discussions are taking place between the Employer and AFTRA, and/or the Employer and a Performer’s agent or representative, as the case may be.

B. Arbitration:

1. If the parties fail to settle the dispute by conciliation or if one party fails or refuses to meet after a request for conciliation, then either AFTRA or Employer may deliver to the other a written demand for arbitration setting forth the material facts concerning the dispute. The demand for arbitration shall be served upon the other party by first class mail addressed to the representative of AFTRA or the Employer designated to receive such service at such party’s last known address or by personal service within the state where the proceeding is to take place. A request for arbitration shall be filed with the American Arbitration Association office in a locale within the Preference Zone in which the Employer has its primary place of business.
2. The arbitrator shall be selected within fifteen (15) days of the date the arbitration demand is served in accordance with the procedures of the American Arbitration Association in effect at such time. The arbitration hearing will be commenced within sixty (60) days of the date that the arbitrator is selected. The arbitration award will be issued within thirty (30) days of the date of submission. All time periods herein may be extended in any particular case upon the written agreement of the parties.
3. All arbitrations hereunder which are not instituted by Employer, shall be brought by and in the name of AFTRA, whether such arbitration is on its own behalf or on

behalf of a Performer and, in the latter case, AFTRA may, but shall not be required to, represent the Performer. AFTRA may, however, in its discretion, permit a Performer to bring an arbitration in the name of the Performer. It shall, however, be solely within the discretion of AFTRA whether a claim of a Performer shall be brought to arbitration.

4. The cost and expenses of the arbitrator shall be shared equally by AFTRA and the Employer.
5. The award of the Arbitrator shall be final and binding upon all parties to the proceeding and judgment upon such award may be entered by any party in the highest court of the forum, state or federal, of competent jurisdiction.
6. AFTRA shall be an ex officio party for all arbitration proceedings hereunder in which any Performer is involved, and AFTRA may do anything which a Performer named in such proceedings might do. Copies of all notices, demands and other papers filed by any party in arbitration proceedings, and copies of all motions, actions or proceedings in court following the award shall be promptly filed with AFTRA. AFTRA agrees to aid the enforcement of awards against its members by appropriate disciplinary action.
7. AFTRA agrees that there will be no stoppage of work during an arbitration or prior to the rendition of the award.
8. Disputes involving or relating to injunctive relief are not arbitrable hereunder.

42. RIGHT TO TERMINATE; UNFAIR LIST

Nothing in this Agreement shall preclude the right of AFTRA to terminate this Agreement, (on reasonable notice, taking into account in particular any production already underway or about to begin at such time), and declare an Employer unfair when such Employer, knowingly and intentionally, breaches its obligation under the Agreement such as, by way of examples and not by way of limitation, where an Employer fails to pay compensation owing to Performers employed by it where there is no bona fide controversy arising out of employment under the Agreement. This provision only has effect when Employer refuses to arbitrate or refuses to recognize arbitrator's decision.

43. NOTICES TO PERFORMERS

All notices which the Employer desires or is required to send a Performer shall be sent to not more than two (2) addresses which the Performer may designate, one of which shall be the address which Performer designates for the sending of payments on his or her standard employment contract. The standard form contract shall provide a place for inserting the address to which notices shall be sent to Performer and Employer. Performer and Employer shall notify the other in writing of any changes in address from those specified on the standard employment contract.

44. MOST FAVORED NATIONS

AFTRA shall not enter into any agreement applicable to Interactive Media which grants an employer greater rights, less onerous working conditions or more favorable payment or other terms or conditions than those accorded Employer hereunder without offering the same to Employer.

45. FORCE MAJEURE

If a production for which the Performer is engaged is necessarily prevented, suspended or postponed during the course thereof, by reason of fire, accident, strike, riot, act of God, or the public enemy, or by any executive or judicial order or by reason of the illness of any other member of the cast or of the director (herein an event of "Force Majeure"), the following provisions shall apply:

- A. **Day Players:** Employer shall have the right to terminate the services of Day Players without further liability, except for compensation for services previously rendered

provided however, that: (i) if such termination occurs before the Performer is used or (ii) if the Performer is subsequently replaced (other than because of his/her unavailability), the Performer shall be entitled to one days salary in addition to compensation for services previously rendered. Employer shall have the right to recall the Performer after such termination without compensation for intervening time, when production is resumed at the same rate as that previously applicable, subject to the Performer's professional availability.

- B. **Three-Day and Weekly Performers:** Employer has the right to suspend Performers' services and place Performers on one-half (½) salary during the period of Force Majeure, subject to the Employer's right to terminate the Performer's employment at any time during the event of Force Majeure. The Weekly Performer shall have the right to terminate employment effective at the end of the third week of suspension at half-salary or, in the case of a Three-Day Performer, effective at the end of the second week of suspension at half salary, or at any time thereafter unless the Employer commences and continues thereafter to pay Performer his/her full compensation upon receipt of Performer's notice of termination.

Notwithstanding the foregoing, at any time after the commencement of an event of Force Majeure and prior to any resumption by the Performer of his/her services, the Employer may terminate the services of the Performer without further liability except for compensation for services previously rendered. Employer shall have the right at any time during the next three (3) weeks (or, in the case of a Three-Day Performer, after two (2) weeks), to recall the Performer without compensation for intervening time at the same rate as that specified in the Performers contract, subject only to the Performer's professional availability.

- C. Any guaranteed employment hereunder may be extended by the period of any suspension for Force Majeure hereunder by giving written notice to such effect not later than the date of resumption of production following such suspension.

46. ADMINISTRATION OF AGREEMENT

The Parties will establish a joint committee to meet periodically to review and address areas of contract administration and/or interpretation during the term of the AFTRA Interactive Media Agreement.

47. ENTIRE AGREEMENT

This Agreement represents the entire understanding between the parties and supersedes all previous agreements, written or oral, which may have been entered into prior to the date of execution hereof. This Agreement shall not be altered except by written agreement executed by both parties hereto.

Accepted and Agreed:

EMPLOYER

By _____ DATE _____

AMERICAN FEDERATION OF TELEVISION AND RADIO ARTISTS

By _____ DATE _____

ARTICLE II - WORKING CONDITIONS - Principal Performers

1. CASTING AND AUDITIONS

- A. If Performers are requested to audition prior to an engagement, Employer shall provide the Performer (or his/her representatives) comprehensive information regarding the audition such as a specific time therefor, the nature of the role(s) available (whether Day Player, Three-Day Performer, etc.), the nature of the performance desired and any unusual working conditions (work involving animals, stunts, hazards, improvisations or nudity). An ample supply of segments of the script ("*sides*") and/or storyboards for the particular role(s) which are the subject of the audition shall be available at the location of the audition at the time of the Performers' sign-in. Cue cards may be used by Employer instead of sides or storyboards if Employer determines that script Material must be kept confidential.
- B. If, at either a first or second audition, the Performer is required to remain for more than one (1) hour from the time of call or arrival, whichever is later, he/she shall be compensated for all time on said call in excess of one (1) hour, at straight time, in one-half (½) hour units, at the rate of 1/16 of the Day Player rate. For the third and each subsequent audition, the Performer shall be paid a minimum of 1/8 of the Day Player rate. For all time in excess of one (1) hour, the Performer shall be paid at straight time in one-half (1) hour units, at a rate of 1/16 of the Day Player rate per unit. Health and Retirement contributions shall be paid on all compensation payable to the Performer hereunder for the third and all subsequent audition calls. If the Performer is required to memorize lines for an audition which he/she has been given to learn outside the studio, he/she shall be compensated at one (1) hour of straight time or actual time required for such audition, whichever is greater. If there has been no agreed salary before the auditions, and if the Performer and Employer cannot agree, the salary rate at which he/she shall be compensated for such excess time shall be 1/16 of the Day Player rate.
- C. Auditions shall be conducted before Employer and authorized representatives thereof and not in public; mass auditions shall be prohibited. If an audition is recorded, it is agreed that such audition Material shall be used only to determine the suitability of a Performer for a specific project.
- D. Adequate seating shall be provided at all auditions.

2. CONSECUTIVE EMPLOYMENT

- A. Employment of Principal Performers employed on a Three-Day or Weekly basis hereunder shall be for consecutive days from the beginning of the engagement. In the event of a recall, Employer shall pay for intervening time, unless a firm booking date was given at the time of the engagement, and agreed to by the Performer.
- B. The requirement, (unless otherwise agreed by Performer), of paid consecutive employment is not applicable to: Day Players, provided firm advance booking dates are given by Employer; Background Actors (who are subject to the call back provisions of Article III, Section 9); and Singers.
- C. Any Principal Performer who has been recalled to render services (other than Retakes, Added Scenes, Etc.) and completes such services, and is then later required for additional Principal Photography ("*spillover*") by Employer, such spillover services shall be rendered to Employer on a first-call basis on the same terms and conditions as the original employment (except for the term), subject to the Performer's professional availability.
- D. The Employer may not agree with any Singer that the Singer will hold himself/herself available for any day after the termination of an original period of employment (which may be as short as one day) unless the Employer agrees at the same time to employ the Singer for such day. It is agreed, however, that the Singer may be recalled by the Employer and will report, at any time prior to the completion of production of the Interactive Program for which he/she was originally employed on the same terms and

conditions (except for the term), provided that he/she is not then otherwise professionally employed.

3. RETAKES, ADDED SCENES, ETC.

- A. Compensation for the Retakes, Added Scenes, etc. of a Performer shall be paid only for the days on which the Performer is actually so engaged. If such Retakes, Added Scenes, Etc. are commenced within three (3) months after the prior termination of employment Performers may be recalled to loop or make close-ups at ½ day's pay pro-rata (1/6 for a Three-Day or 1/10 for a Weekly Performer) for a four (4) hour session. If the session exceeds four (4) hours, a full day's pro-rata compensation (1/3 of the Three-Day or 1/5 of the Performer's Weekly base rate) shall be payable at the daily rate originally agreed upon except in case of conversion from Day Player to a Three-Day or Weekly Performer, in which event the compensation shall be pro-rated on the Three-Day or Weekly rate originally agreed upon. For Off-Camera Performers such ½ day's pay pro-rata shall include a two-(2) hour session. If such session exceeds two (2) hours, a full day's pro-rata compensation shall be payable at the daily rate originally agreed upon.
- B. Close-ups: AFTRA will freely grant waivers of consecutive employment (if applicable) for the making of close-ups after the completion of Principal Photography of the Program so that the Performer shall be paid only for the day or days upon which he/she renders such services.
- C. This provision shall not be used to introduce a new character or role.

4. CONVERSION OF DAY PLAYERS

Employer shall have the right to convert the engagement of a Day Player to a Three-Day or Weekly Performer at any time, but such conversion shall commence not earlier than the date Employer gives such Performer (or his/her representative) written notice of such conversion in person or by telegraphing or mailing the same to the address furnished the Employer by the Performer. If the notice is delivered personally to the Performer by noon, or if a telegraphic or facsimile notice is delivered to the office transmitting such message by noon, then the conversion shall be effective commencing with that day. If notice delivered personally to the Performer or to the telegraph after noon, or if sent by mail, then in each of the instances as mentioned the conversion shall be effective on the Performers next work day.

5. WORK TIME - DEFINITION AND EXCEPTIONS

- A. For the purpose of ascertaining and computing hours of work, the rest period and Overtime, the period from the time the Performer is required to report to work by Employer "Call" and does actually report ready, willing and able to work without interruption, until the time such Performer is finally dismissed for the day, shall constitute work time, except as follows:
 - 1. Allowable meal periods, as provided by Section 14;
 - 2. Casting or audition calls, as provided by Section I;
 - 3. Fittings, as provided by Section 10;
 - 4. Story, song and production conferences, as provided by Section 15;
 - 5. Study of lines or scripts, as provided by Section 16;
 - 6. Publicity interviews and stills, as provided by Section 17;
 - 7. Fittings, Wardrobe Tests and Makeup Tests, as provided by Sections 10 and 11; or
 - 8. Travel time, to the extent provided by Section 29.
- B. After the starting date of employment, none of the events referenced in Subsection 5.A. above shall break the consecutive employment of such Performer.

- C. Any period during which the Performer fails, refuses, or is unable because of disability to render services, and any period during which the Performer at his/her own request is excused from rendering services, shall not be work time for any purpose.

6. OVERTIME

- A. On-Camera Performers: For the purpose of computing Overtime, a Performer's day is computed from the time of first Call to dismissal, excluding meal periods. Overtime payments for all On-Camera Performers shall begin with the ninth hour of any given day; the ninth and tenth hours shall be paid at time and one-half; the eleventh hour and beyond shall be paid at double-time. If the Performer is working at midnight of any day, then his/her hours of work for such day shall be computed until the Performer has been dismissed subsequent to midnight.

- B. Off-Camera (Voice-Over) Performers: Voice-over performers may be engaged based on either a four- (4) hour day or a six- (6) hour day.

1. A performer engaged for a four- (4) hour day shall be entitled to overtime equal to time and one-half for the fifth and sixth hours and double time for any hours in excess of six (6).
2. A performer engaged for a six- (6) hour day shall be entitled to overtime equal to time and one-half for the seventh and eighth hours and double time for any hours in excess of eight (8).

Overtime rates are calculated by dividing the day rate by the number of hours allocated.

- C. Rate Maximums:

1. Day Players compensated more than \$1,616.05 (\$1,656.45 eff. 4/1/10) per day are payable for work beyond eight (8) hours (or beyond four [4] hours for a four [4] hour day or beyond six [6] hours for a six [6] hour day) based on the rate of \$3,328.95 (\$3,412.15 eff. 4/1/10).
2. Three-Day Performers compensated more than \$4,208.05 (\$4,313.25 eff. 4/1/10) are payable for work beyond eight (8) hours.
3. Weekly Performers compensated more than \$5,606.30 (\$5,746 eff. 4/1/10) per week are payable for work beyond eight (8).

- D. Payment of Overtime shall not be deemed to reduce a Performer's guaranteed employment or compensation. Except as otherwise herein provided in Sections 10 and 11, makeup, hairdress, wardrobe or fittings shall be considered work time for all purposes including Overtime.

7. ENGAGEMENT; NON-USE OF SERVICES AFTER ENGAGEMENT

- A. A Performer shall be considered definitely engaged by an Employer in any of the following events:

1. When the Performer is given written notice of acceptance by the Employer;
2. When a form contract signed by the Employer is delivered to a Performer;
3. When a form contract unsigned by the Employer is delivered to a Performer and is executed by Performer and returned to Employer within 48 hours;
4. When the Performer is fitted; however, this shall not apply to wardrobe tests;
5. When the Performer is given a verbal call which the player accepts; or
6. When a Day Player is given oral notice by the Employer and agrees to report on the commencement date for which the Call is given; however, until noon of the day preceding such commencement date, either the Employer or the Performer may cancel such employment. If the Employer is unable to reach the Performer

personally, either by telephone or otherwise, notice of such cancellation may be given to the Performer by telegraph or fax in which event the time when such telegraph is given by the Employer to the telegraph company, addressed to the Performer at his/her address or sent via facsimile at the appropriate fax number last known to the Employer, shall be the time of such cancellation.

- B. Neither auditions nor interviews shall constitute an engagement.
- C. When a Performer is engaged and not used for any reasons other than his/her default, illness or other incapacity, he/she shall be entitled to a day's pay or his/her guarantee, whichever is greater. If the Performer who is selected is unavailable when called to render actual services, he/she shall not be entitled to a day's pay.
- D. A Performer who is replaced in a production after commencement of his/her services pursuant to his/her engagement and before the completion of the engagement, for reasons other than his/her default, illness or other incapacity, shall receive his/her guarantee, or a day's pay in addition to payment for services rendered to that time, whichever is greater.
- E. A Performer shall be notified by Employer at the time of engagement whether the engagement requires overnight location work and, if so, the approximate time and duration of such location work to the extent such information is then known.

8. PROMPTING DEVICES; DESCRIPTION OF ROLE; SCRIPTS

- A. A full and forthright description of the role to be played must be given at the time of audition or interview or, if none, at the time of booking. Such description should include length of Performer's role, use of unusual terminology, whether memorization is required, whether cue cards or other prompting devices will be used.
- B. When an On-Camera Performer is required to deliver unusual terminology, Employer will make every effort to have a prompting device or cue cards. If the script is not made available to the On-Camera Performer at least 24 hours prior to the shooting date, Employer must have cue cards or a prompting device to the extent such items are needed.
- C. If the Performer's services will include development of a script through so called "ad-lib" work or substantial embellishment of an existing script through such work, Employer must so inform Performer or Performers representative at the time of audition or interview.

9. ADVANCE INFORMATION; NOTICE OF SERVICES

Employer shall inform a Performer (or his/her representative) at the time of audition or interview for a job, or at the time of hiring (if there is no audition or interview), whether the employment is to be as a Principal Performer, Background Actor or otherwise.

Effective July 1, 2005, at the time an offer of employment is extended to a performer, the Employer shall notify the performer or his or her agent of the general nature of the work involved and whether voice-matching or vocally stressful work is contemplated., Producers who do not provide notice of vocally stressful work shall pay liquidated damages of \$100 for each failure to provide a notice of vocally stressful work.

AFTRA and representatives of the Producers shall meet and confer beginning on or before December 31, 2009 to develop agreed-upon guidelines for conducting vocally stressful work. Thereafter, AFTRA and the Producers shall utilize best efforts to educate voice performers and directors regarding the guidelines and encourage compliance with them.

10. FITTINGS, WARDROBE TESTS, AND MAKEUP TESTS

- A. **Fittings:** Time spent by a Performer in fittings shall be paid as follows:
 - 1. Fittings on the same day that the Performer works:
 - a. Time spent in such fittings shall be work time and part of the Performer's continuous day, the same as wardrobe.

- b. If 4 hours or more intervene between the end of the fitting call and the beginning of the work call and the Performer is dismissed in the interim, the fitting shall be paid for as though it were on a prior day on which the Performer did not work (as described below).
- 2. Fittings on a day prior to work:
 - a. Day Player: Where a Day Player is fitted on a day prior to the day on which he/she works, he/she shall be entitled to one (1) hour minimum pay for each Call. Additional time shall be paid for in fifteen (15) minute units. Day Players receiving more than two times Scale per day shall not be entitled to any compensation for such fittings.
 - b. Three-Day Performers: Employer shall be entitled to two-(2) hours free fitting time. Additional fitting time shall be payable at the compensation rate specified in the Performer's contract, in fifteen (15) minute units, with a one (1) hour minimum Call.
 - c. Weekly Performers: Employer shall be entitled to four (4) hours free fitting time on two (2) days for each week the Performer works on the Program. Additional fitting time shall be payable at the compensation rate specified in the Performer's contract, in fifteen (15) minute units, with a one (1) hour minimum call period.
- 3. A Call to determine whether a Performer's own wardrobe is appropriate shall be deemed a "fitting" covered by the provisions of this Section 10.

B. Wardrobe and Makeup Tests

- 1. If a Performer is given a makeup or wardrobe test and not used in the Program for which he/she was tested, he/she shall receive one-half (½) day's pay at Scale for each day on which he/she is given such tests.
- 2. If a Performer is given a makeup or wardrobe test and is used in the Program for which he/she was tested, he/she shall be paid as follows:
 - a. Tests on the same day that the Performer works: Time spent in such tests shall be work time and part of the Performer's continuous day (the same as fittings).
 - b. Test on a day prior to work: Where a Day Player is given a makeup or wardrobe test on a day prior to the day on which he/she works, he/she shall be entitled to one (1) hour minimum pay for each Call. Additional time shall be paid for in fifteen (15) minute units. Day Player receiving more than two times Scale per day shall not be entitled to any compensation for such tests.
- 3. Employer shall be entitled to one (1) day's free fitting time for a test of each Three-Day or Weekly Performer on the Program. The Performer shall be entitled to a half-day's pay, pro-rata for each additional day tested in excess of such free time.

11. MAKEUP, HAIRDRESS, WARDROBE ALLOWANCE

- A. Exception to Work Time: Employer may require a Performer to report ready for work made-up with hairdress and/or in wardrobe without assistance from the Employer. In such cases, any time spent by the Performer therein prior to the Performer's first call shall not be work time for any purpose, but the Employer may not have a Performer do any such preparation at any place designated by the Employer. The mere fact that a dressing room is available to Performers on the work site, to which he/she is not directed to report, is not the designation of a place for preparation by Employer. In the case of wardrobe, if the Performer is allowed to take home wardrobe or furnished a dressing room with the wardrobe available in the dressing room, the time spent by such Performer in wardrobe shall not be considered work time.

- B. Except as specifically designated in the foregoing Subsection 11.A, any call by Employer for makeup, hairdress, or wardrobe is a call to work. Any Performer to whom Employer supplies the services of a makeup artist for makeup, or hairdresser for hairdressing, shall be considered to have a call for makeup or hairdress. Where the Performer has reported pursuant to a call for makeup, hairdress or wardrobe, the time so spent shall be work time.
- C. Where makeup or hairdress other than ordinary street makeup or hairdress is required by Employer, a professional hairdresser and makeup artist (if and as needed) shall be provided for the purpose of applying and maintaining such makeup and hairdress. If an Employer requires a Performer to furnish any special hairdress necessitating an expenditure, Employer shall provide an advance covering the expenditure at facilities designated by Employer.
- D. Adequate facilities shall be provided for removing makeup and hairdress which may be the same facilities used for applying makeup and hairdress. Time spent in removal of complicated or Extraordinary makeup or hairdress shall be work time, but not removal of ordinary makeup and hairdress.
- E. On-Camera Performers who supply specified personal wardrobe worn during rehearsals or production shall receive a maintenance fee for each complete wardrobe change at the following rates:
 - 1. Non-evening wear: \$15.00 per costume change for each 2 days or part thereof
 - 2. Evening wear: \$25.00 per costume change for each 2 days or part thereof
- F. “*Wardrobe Change*”: A single wardrobe change shall consist of at least one additional clothing item worn above the waist (such as a blouse or shirt) and at least one additional clothing item worn below the waist (such as slacks or skirt) unless only one (1) such area is visible to the camera. If so, one (1) additional item in the visible area shall be considered a wardrobe change. Items such as dresses, gowns, overcoats, etc. shall be considered a change by themselves unless always worn as part of a single outfit. Further, each item of clothing shall be counted only once in determining the total number of changes even though the item may be used in more than one outfit. No additional fees shall be charged for mixing and matching wardrobe items. For example, if outfit #1 is a blue blazer and tan slacks and outfit #2 is a gray suit, use of the blazer and suit pants to create a third outfit shall not require an additional fee. Accessories such as scarves, ties, and jewelry shall not be counted as items of clothing for this purpose.
- G. Wardrobe supplied by the On-Camera Performer which is damaged or lost in the course of employment shall be repaired or replaced at the expense of Employer provided that notice of such damage or loss is given Employer within a reasonable time after such damage.
- H. Stunt doubles shall be provided with duplicated, properly fitting wardrobe which shall be appropriately cleaned after prior use by another Performer.

12. REST PERIODS

Effective July 1, 2005, Employer shall provide voice-over performers who are engaged to work in excess of one (1) hour with a five- (5) minute rest period for each hour of recording, provided that an employer may accommodate a performers request that applicable rest periods be aggregated in order to permit earlier dismissal.

13. REST PERIOD; LIQUIDATED DAMAGES FOR VIOLATION

- A. A Performer shall be entitled to a rest period of twelve (12) consecutive hours from the time he/she is finally dismissed for the day until his/her first call thereafter, whether for makeup, wardrobe, hairdress or any other purpose.
- B. The above provisions regarding the rest period shall be subject to the following exceptions:

1. Where the Employer is videotaping on a nearby location, only if exterior photography is required on the day before and on the day after such reduced rest period, the 12-hour rest period may be reduced to ten (10) hours, but such reduction may not again be allowed unless three (3) days without such reduction intervenes. The reduction to ten (10) hours in the circumstances described applies only if both of the days between which the rest period intervenes are spent at a nearby location.
 2. Where a Performer arrives at his/her place of lodging on an overnight location after 9:00 p.m. and does not work that night, the rest period with respect to the first call following such arrival may be ten (10) hours instead of twelve (12) hours, but the first call must be at the place of lodging.
 3. The Performer shall be entitled to a rest period of 58 consecutive hours (36 consecutive hours if on overnight location) once each week.
- C. The Performer may waive the rest period without AFTRA's consent, but if he/she does so, he/she shall be entitled to Liquidated Damages of a day's pay or \$780.00, whichever is the lesser sum. The Performer may be required to waive the rest period if the violation is not over 1½ hours. The above Liquidated Damages of a day's pay or \$780.00, whichever is the lesser sum, shall be automatically incurred in any case in which the Performer waives the rest period. The Liquidated Damages may not be waived without the consent of AFTRA.

14. MEAL PERIODS; ALLOWANCES; LIQUIDATED DAMAGES

- A. Allowable meal periods shall not be counted as work time for any purpose. The Performer's first meal period shall commence within six (6) hours following the time of his/her first call for the day. Succeeding meal periods of the same Performer shall commence within six (6) hours after the end of the preceding meal period. A meal period shall not be less than one-half (½) hour nor more than one (1) hour in length. If, upon the expiration of such six-(6) hour period, the camera is in the actual course of photography, it shall not be a violation to complete such photography. If, on location or while traveling to or from location, the delay is not due to any fault or negligence of the Employer, its agents, or persons contracted by it to render the catering service, or if delay is caused by common carriers such as railroads, there shall be no Liquidated Damages for violation of the above provisions. If the caterer is chosen carefully and is delayed in reaching the location beyond the required time for commencing a meal period, there shall be no Liquidated Damages for the violation; but if such delay shall continue beyond ½ hour, work shall cease and the time intervening between such cessation of work and the meal period shall be work time.

If by reason of a long makeup, wardrobe or hairdress period of a Performer, application of the above-stated rule would require calling a meal period for such Performer at a time earlier than that required for the rest of the set, Employer shall not be required to call such meal period if food, such as coffee and sandwiches, is made available to such Performer before the time for his/her established call, it being understood that no deduction shall be made from work time for such period. It is further understood however, that such Performer shall be given a meal period within six (6) hours from the time such food is made available to the Performer.

- B. The Liquidated Damages for meal period violations shall be:
- \$25 to each Performer for the first one-half hour of violation or fraction thereof;
 - \$35 to each Performer for the 2nd one-half hour or fraction thereof;
 - \$50 to each Performer for the 3rd and each additional one-half hour or fraction thereof.
- C. Meals must be provided on all locations. All Performers shall be entitled to a basic \$48.40 per diem meal allowance on overnight locations. The Employer shall have the

right to deduct from the per diem meal allowance the following amounts for each meal furnished, as follows: breakfast, \$9.30; lunch: \$14.00; dinner: \$25.10.

- D. Whenever Employer supplies meals or other food or beverages to the cast or crew, or provides money in lieu thereof, the same shall be furnished to all Performers. Regarding beverages, this provision is applicable only in those situations where the Employer supplies beverages to the cast and crew and is not applicable where isolated groups may supply their own beverages (e.g., prop truck with cooler for beverages). When meals are served to Performers, tables and seats shall be made available for them. No time shall be deducted from work time for any meal supplied by the Employer until the Performers are given the opportunity to get in line for the actual feeding of Performers.

“Meal” means an adequate, well-balanced serving of a variety of wholesome, nutritious foods. The furnishing of snacks, such as hot dogs or hamburgers, to Performers by Employer shall not constitute a meal period. Meals supplied by the Employer shall not be deducted from the Performers wages but may be deducted from the per diem allowances specified herein.

15. STORY, SONG AND PRODUCTION CONFERENCES

Story, song, and production conferences on any day on which the Performer is not otherwise working shall not be counted as work time for any purpose. This provision shall not be construed to interrupt the consecutive employment of Performer.

16. STUDY OF LINES OR SCRIPTS

Study of lines or scripts shall not be counted as work time for any purpose except during the period between reporting and dismissal.

17. PUBLICITY INTERVIEWS AND STILLS

- A. Publicity Interviews: Time spent by the Performer in publicity interviews whether on a day the Performer works or otherwise, shall not be counted as work time for any purpose, but the Performer shall be under no obligation to report for such interviews on days other than work days.
- B. Publicity Stills: If the Employer desires the services of the Performer on a day when the Performer is not otherwise engaged hereunder to make publicity stills, and if the Performer agrees to render such services, Performer shall receive the 50% of the Day Player rate for up to four (4) hours of services. Any time in excess of four (4) hours for any day spent solely in taking publicity stills shall require the Day Player minimum. Use of such stills is strictly limited to publicity of the Program itself and not for general client brochures, magazine ads etc., which are unrelated to the Program produced in which the Performer appears.

18. REHEARSAL TIME

- A. The reading of lines, acting, singing or dancing in preparation for the Performer’s performance, in the presence and under the supervision of a representative of Employer, constitutes “Rehearsal” time. Rehearsals shall be counted as work time.
- B. Auditions, tests, makeup and wardrobe tests do not constitute rehearsals.
- C. AFTRA agrees to grant waivers freely for the training of a Performer in a particular skill such as horseback riding, fencing, etc. Compensation, if any, shall be agreed to between the Performer and the Employer, subject to the approval of AFTRA in the event of a dispute.
- D. Neither tests, auditions, fittings, publicity stills, pre-production stills, pre-recording of material prior to Principal Photography, nor training specified in Subsection C above after employment but before the starting date of the Performer’s employment, shall start the employment period of such Performer. Compensation, if any, for such services shall be as otherwise provided herein.

19. SATURDAY AND SUNDAY WORK; NIGHT WORK; HOLIDAYS

- A. All On-Camera Performers shall receive double time for the sixth and seventh day of work in a work week. Voice-Over Performers shall receive double time for Saturday and Sunday work, regardless of the length of the work week.
- B. Six (6)-day Overnight Location rate is \$2,392.80 (\$2,452.60 eff. 4/1/10). A work week rendered on “overnight location, as defined herein, shall be deemed to be a workweek consisting of six (6) overnight location days or six (6) days of any combination of studio and overnight location days, which combination includes a sixth day overnight location day. An “overnight location” day shall be deemed to mean any day on which a Performer is being paid by Employer which is spent or worked by Performer on an overnight location on the day of departure or return to and/or from such location (provided the Performer does not actually work otherwise for Employer at its studio).

On an overnight location, the On-Camera Performer rate is based on a six (6) day, forty-four (44) hour workweek at \$2,392.80 (\$2,452.60 eff. 4/1/10), instead of a five (5) day, forty (40) hour week at \$2,713.00 (\$2,780.85 eff. 4/1/10). Employment is still consecutive with daily overtime paid after eight (8) hours as follows:

9th and 10th hour: $\$2,392.80/40 \times 1.5 = \89.75 per hour
effective 4/1/10 = $\$2,780.85 /40 \times 1.5 = \104.30 per hour

11th hour on: $\$2,392.80/40 \times 2 = \119.65 per hour
effective 4/1/10 = $\$2,780.85 /40 \times 2 = \139.05 per hour

Total work time over the forty-four (44) hour workweek is to be paid at \$89.75 per hour (\$2,392.80/40 x 1.5). Effective 4/1/10 it is to be paid at \$104.30 per hour.

- C. Any Performer required to work at night in New York City and not dismissed by 9:30 p.m. will be provided transportation by Employer to Grand Central Station, Penn Station or the Port Authority Bus Terminal, unless such place of dismissal is within a zone bordered by 34th Street on the south, 59th Street on the north, and Third and Eighth Avenues on the east and west, respectively.
- D. Performers shall receive Overtime for work on any of the following holidays: New Year’s Day; Dr. Martin Luther King, Jr.’s Birthday; Washington’s Birthday (President’s Day); Memorial Day; July 4th; Labor Day; Thanksgiving Day; or Christmas. A Performer shall be paid for a holiday which is not worked only if a Performer is required to spend any such holiday on an overnight location. The amount of Overtime paid on such holidays shall be the same rate as for the first eight hours of work times two (double-time of regular workday pay). There shall be no compounding of the premium pay provided herein.
- E. The salary ceilings specified in Subsection 6.C. of this Article II, above shall be applicable to the provisions of this Section 19.

20. WEATHER PERMITTING CALLS/DAY PLAYERS ONLY

Weather permitting Calls are allowable for Day Players subject to the following limitations and conditions:

- A. Weather permitting Calls shall not be issued for stages in studios.
- B. A Performer receiving two times Scale per day or less shall be paid a half-day’s compensation upon the cancellation of any weather permitting Call. This sum shall entitle the Employer to hold the Performer for a time period not exceeding four (4) hours. The Performer shall receive a half-day’s compensation for each additional four (4) hours, or portion thereof, during which he/she is held by the Employer. During this waiting period the Employer has the privilege of putting Performers into costumes, rehearsing, or making other use of their services. If, however, any recording or photography is done by Employer whether still pictures or otherwise, the Performer shall be paid the agreed daily wage.

- C. Weather permitting Calls may not be issued to a Performer after the commencement of Principal Photography, and the fact that weather permitting Call or Calls have been used before the commencement of Principal Photography shall not cause the consecutive employment provisions of these rules to come into effect. "Principal Photography" as used herein (and as defined in Article I, Section 3.S) does not refer to Retakes, Added Scenes, etc.
- D. At the time of acceptance by a Performer of a weather permitting Call, the Performer shall advise Employer of any possible conflict for immediate subsequent days.

21. SCRIPTED LINES; UPGRADE OF BACKGROUND ACTORS (NON-SCRIPTED LINES ONLY)

- A. The Employer agrees that all scripted parts shall be played by Performers hired directly as such, and not by Background Actors adjusted on the set, except where a Performer has been hired to play the part and for any reason is unavailable or unable to portray the part properly. Except as provided in the foregoing sentence, no Background Actor hired as such may be employed for scripted lines on location; and no Background Actor hired as such may be employed for scripted lines for work at the studio on the same day as the day on which he/she was hired as a Background Actor. Non-Scripted" lines are defined as lines which are not pre-planned or preconceived and which are not deliberately omitted for the purpose of evading these provisions.
- B. A Background Actor hired as such may speak Non-Scripted lines. In such cases the Background Actor shall be signed off as a Background Actor and employed as a Day Player and shall receive payment as a Day Player from the beginning of such day. The Performer so adjusted may be signed off as a Day Player and be re-employed in the same Program to perform Background Actor work but not in the same part for which he/she was adjusted. If such person is again adjusted to perform Day Player services in the different role in the same Program, he/she shall not be entitled to consecutive days of employment between the time when he/she is first signed off as a Day Player and the time when he/she is again adjusted. If a Background Actor has been adjusted to perform Day Player work, the Employer may retake the scene with a different Day Player, without any Liquidated Damages for failure to recall such Background Actor. A Background Actor adjusted for Non-Scripted lines shall not be entitled to the Day Player pay for any day or days before he/she was adjusted.

The day's compensation due a Performer hired as a Background Actor, whether by the day or by the week, and adjusted for Day Player work, including services as a Background Actor and as a Day Player, shall be computed as if the Background Actor were employed from the beginning of the day as a Day Player.

22. STUNT ADJUSTMENT

Unless otherwise bargained for at the time of the engagement, a Performer not engaged as a stunt Performer shall receive an adjustment of not less than one (1) additional day's pay at Day Player Scale for any day on which such Performer performs a stunt. In no event shall the Performer ever receive less than Day Player minimum for any day on which such Performer performs a stunt which was not bargained for at the time of original engagement. Overtime compensation on such day shall be based on the Performer's aggregate compensation for such day.

23. PRE-RECORDINGS; PRE-PRODUCTION STILLS

- A. Pre-recordings, including Rehearsals therefor, after confirmation of engagement but before the starting date of such engagement, shall not start the consecutive days of employment of a Performer. Such Performer shall be paid for the day or days on which he renders services in connection with pre-recordings at not less than Day Player minimum, pro-rated for hours actually worked.
- B. Pre-production stills, including Rehearsals and preparations therefore, after confirmation of engagement but before the starting date of such engagement, shall not start the consecutive days of employment of a Performer. Such Performer shall be paid for day or

days on which he/she renders services in connection with pre-production stills at not less than Day Player minimum, pro-rated for hours actually worked.

24. TOURS AND PERSONAL APPEARANCES

Tours and personal appearances made in connection with employment hereunder shall be in accordance with the following:

- A. Nearby Locations (as defined in Article II, Section 29, below): A Performer shall be paid one-half day's pay pro-rata for up to four (4) hours' time. If over four (4) hours of the Performer's time is required, the Performer shall be paid a pro-rated day's pay.
- B. Distant Locations (as defined in Article II, Section 29, below): A Performer shall be paid a pro-rated day's pay.
- C. When the Performer is required to travel for tours and personal appearances, he/she shall be provided transportation and reasonable expenses.
- D. Employer shall cooperate to see that the Performers receive adequate meal periods and rest periods when on tours and personal appearances.

25. DRESSING ROOMS; MISCELLANEOUS AMENITIES

- A. Employer shall provide clean and accessible dressing rooms and toilet facilities in studios and on locations. Such dressing rooms shall be provided with adequate locks or Employer shall provide facilities for checking normal personal belongings.
- B. Chairs shall be available for all Performers in the dressing rooms, on the stage and on location.
- C. Dressing rooms shall be clean and in good repair and Employer shall designate a person responsible to implement the foregoing. Adequate space and reasonable privacy shall be provided for wardrobe changes for each Performer. Heaters or fans shall be provided as needed in all dressing rooms. In the event compliance with the foregoing is not feasible because of space, physical or legal limitations or location practicalities, the matter shall be discussed with AFTRA. Waivers shall be not unreasonably withheld under such circumstances.

26. FLIGHT INSURANCE

When a Performer is requested by Employer to travel by airplane, Employer shall reimburse the Performer up to an additional fee of \$10.00 for flight insurance, if purchased by Performer. When an Employer requests a Performer to fly by non-commercial or non-scheduled carrier, Employer shall obtain a short-term insurance policy for the Performer providing insurance equal to the amount available for \$10.00 on a commercial carrier. Notwithstanding anything to the contrary, the maximum insurance required under this Section 26 shall be the maximum amount reasonably available in the ordinary course of business from an insurance company.

27. EXPENSES

When a Performer is specifically required by the Employer to spend money in connection with services under this Agreement, Employer shall provide an advance for such expenditures. Upon completion of all work and prior to any additional reimbursements, Performer shall submit to Employer an itemized report of expenses incurred at Employer's direction in connection with travel to and from locations, such as cab fares or mileage to and from air terminals and parking. All pertinent receipts and bills shall be attached to the report as substantiation of such expenditures.

Employer shall reimburse Performer for such expenses within two (2) weeks from the date that the Performer presents such substantiation of such expenditures. Employer shall not be obligated to reimburse a Performer for sums beyond the minimum per diems and/or allowances for travel specified in the Agreement without written verification (receipts) in a form accepted pursuant to standard accounting practices.

28. PROTECTION OF PERFORMERS; SPECIAL CONDITIONS

- A. General:** Employer shall make all attempts to secure the safety of all Performers engaged hereunder while said Performers are working under the direction and control of Employer and shall use good faith attempts to comply with any reasonable standards established within the entertainment industry in connection therewith. Employer shall obtain copies of all safety guidelines issued by the Entertainment Labor/Management Safety Committee. Employer shall comply with all federal, state and local laws with respect to the use of hazardous substances, and all appropriate local fire and safety codes for interviewing, casting, fittings or recording of all Materials where the services of Performers are used.
- B. Medical Aid:** When hazardous work or stunt work is contemplated, Employer shall have available medical and/or first aid assistance at the studio and on location. First-aid kits shall always be available on studio sets and locations.
- C. Safety Measures:** The following precautions shall be taken by Employer to ensure the safety of the Performer:

1. STUNTS

- a. **General:** A Performer's consent shall be required prior to performing stunts or stunt-related activity, and shall be limited to the stunt or stunt related activity for which the consent was given. Where scripted or unscripted stunts or other hazardous activity are required of Performers, an individual qualified by training and/or experience in the planning, setting up and performing the type of stunt involved shall be engaged and present on the set. No Performer shall be requested to perform a stunt without the opportunity for prior consultation with such individual. The foregoing provision shall not apply to a stunt Performer who is qualified to plan and perform the stunt in question, when both the planning and performance of the stunt do not involve other Performers.
- b. **Explosives:** No Performer shall be rigged with any type of explosive charge of any nature whatsoever without the use of a qualified special effects person who is a professional and is duly licensed under any applicable state and federal laws to handle hazardous Materials, if any.
- c. **Driving:** When an On-Camera Principal Performer is doubled because the level of driving skill requires a professional driver, the driver double shall qualify as a stunt Performer. This would also apply to doubling passengers for the safety of the On-Camera Principal Performer. Dust or smoke where a windshield is obscured shall be considered a hazardous driving condition. Driving close to explosives and/or pyrotechnics shall be considered stunt driving.

2. ANIMALS

No Performer shall be requested to work with an animal which a reasonable person would regard as dangerous under the circumstances unless an animal handler or trainer qualified by training and/or experience is present.

3. SMOKE/DUST

All Performers shall be notified prior to the date of hiring if work in artificially or mechanically created smoke is involved. A Performer may refuse to perform in smoke and will be paid one day's compensation or the Day Player rate, whichever is greater, if a Performer is not so notified. Employer shall comply with all Federal and State laws and regulations applicable to the use of substances utilized for the creation of smoke. Performers shall be given a fifteen (15) minute break away from the area of smoke or dust during each hour in which he/she is required to work in smoke or dust.

4. SWIMMING

Swimmers shall not be required to go into the water within thirty (30) minutes following a regular meal period.

5. PHYSICAL ELEMENTS

It shall be the responsibility of the Employer to provide Performers the opportunity to utilize physical protection from sunburn, frostbite and extremes of temperature during work hours usual and customary in the industry.

6. PROPS

Employer shall exercise care, including prior testing of equipment (breakaway props, etc.) during rehearsals to avoid injury to the Performer.

7. DANCERS

- a. **Standard Floors:** Floors for choreographed dancers must be resilient, flexible and level in accordance with industry standards. Industry standards generally provided for 1" of airspace beneath wood flooring or 3" or 4" of padding under battleship linoleum laid over a concrete or wood-on-concrete floor. Floor surfaces must be clean and free of splinters, wax, nails, etc. Floors should be swept and mopped at least daily with a germ-killing solution. If Employer requires dancing on surfaces which do not meet the foregoing general standards, such work shall be deemed to be "hazardous work" and shall be subject to all the hazardous work provisions of the Agreement.
- b. **Hazardous Work:** If Employer requires dancing in inclement weather, out-of-season clothing or in costuming which by virtue of its fit or nature may subject the dancer to physical injury or health hazard, or if Employer requires "wire flying," it shall be deemed to be hazardous work and shall be subject to the "*dancer's premium payment*" additional pay of \$66.95 (effective 1/1/06 \$69.00; effective 1/1/05 \$71.10; effective 1/1/08 \$72.20) per day.
- c. **Warm-up Spaces:** Adequate space must be provided to permit all dancers to warm-up (perform limbering exercises) thirty (30) minutes prior to dancing.
- d. **Breaks:** Dancers will have at least ten (10) minutes rest during each hour of actual Rehearsal or shooting unless rehearsal or shooting is of a continuous nature. If so, at the choreographer's discretion, dancers may continue until a total of ninety (90) minutes has elapsed after which time a twenty (20) minutes break must be called.
- e. **Temperature:** Stage or Rehearsal area temperature for choreographed dancers must not fall below 70 degrees Fahrenheit. Air ventilation (circulation) shall be provided at all times but air conditioning is not acceptable unless strictly regulated to prevent drafts.
- f. **Meal Periods:** Dancers cannot be required to dance or skate within thirty (30) minutes following a regular meal period. If Employer does not provide meal service and dancers must leave the premises or location to eat, an additional fifteen (15) minutes must be allowed both before and after meal break to permit the dancer to change clothes. Such fifteen (15) minutes period may be included in the thirty (30) minutes waiting period following a meal.
- g. **Emergency Treatment:** Employer will use all reasonable efforts to have a doctor qualified to treat dancers on call in case of an emergency and will notify the deputy elected by the dancers of the doctor's name and phone number.

- h. **Footwear:** Footwear provided by the Employer shall be appropriate to the work and shall be clean, properly fitted, braced and rubberized. Any dancer who is directed to and reports with his or her own footwear shall be paid an allowance of \$10.00 per day for each pair of shoes utilized in the performance.

8. SINGERS

Singers shall be given a five (5) minute rest period in each hour of recording.

9. NUDITY

The Employer's representative will notify the Performer (or his/her representative) of any nudity or sex acts expected in the role prior to the first interview or audition (if known at the time). During any production involving nudity or sex scenes, the set shall be closed to all persons having no business in connection with the production. No still photography of nudity or sex acts will be authorized by the Employer to be made without the consent of the Performer. The appearance of a Performer in a nude or sex scene or doubling of a Performer in such a scene shall be conditioned upon his or her prior written consent. If a Performer has agreed to appear in such scenes and then withdraws his/her consent Employer shall have the right to double, but consent may not be withdrawn as to the film already photographed.

29. **TRAVEL**

A. Definitions:

- 1. "Studio Zone(s)" are:
 - a. Los Angeles: 30 mile radius from the intersection of Beverly Boulevard and La Cienega Boulevard.
 - b. New York City: 8 mile radius from Columbus Circle. However, if a Performer is asked to report to a pick up spot, such spot must be within the area between 23rd street and 59th street, bounded by the East River and the Hudson River.
 - c. San Francisco: 50 mile radius from the intersection of Powell and Market Streets.
 - d. Phoenix and Tucson: 25 miles from the center of the city.
 - e. In all other areas where AFTRA has established local offices, the studio zone shall be that zone defined by the contract between the local offices and the Employer therein located. If such zone is not defined, the studio zone shall be subject to negotiation and upon failure to reach agreement, arbitration.
 - f. AFTRA shall promptly notify all local offices and appropriate Employer organizations of any locally agreed-upon studio zones.
- 2. A "Nearby Location" is a location beyond the studio zone to which the Performer travels and returns in the same day.
- 3. "A Distant Location" is a location beyond the studio zone to which the Performer travels but is required to stay overnight.
- 22. "Travel Time" is time spent traveling between the place at which a Performer is required to report for services and the actual location at which such services will be rendered and, if applicable, the time between a Distant Location and Distant Location housing. Travel Time, as defined herein, is work time.
 - a. When Employer provides transportation:

- (i) all time between call time at the pick-up point and arrival at the shooting site shall be travel time;
 - (ii) all time between the commencement of return travel and arrival at the original pick-up point shall be travel time; and
 - (iii) any time spent waiting for commencement of travel at the end of the work day is travel time.
- b. When the Performer provides transportation:
 - (i) all time spent in actual travel shall be travel time;
 - (ii) any time intervening between the Performer's arrival and the time of his/her call is not travel time; and
 - (iii) at the end of the work day, return travel time begins when the Performer is dismissed.
- B. A Performer may be asked to report to any site or to Employer's studio within a Studio Zone without the Employer providing transportation or reimbursement for Travel Time thereto. When a Performer is asked to report to a site other than within the Studio Zone, work time shall begin as though the Performer has reported to the Employer's studio or offices within the Studio Zone and end as though the Performer had returned to the same, and the driver only shall be paid at the maximum rate per mile which the Internal Revenue Code and Regulations provide.
- C. Travel Time for Performers shall be computed on straight time in hourly units, with no compounding of payment for travel and work, based on hourly rates of:
 - (i) $\frac{1}{4}$ of the Voice-Over rate for Off-Camera Performers;
 - (ii) of the Day Player rate;
 - (iii) $\frac{1}{24}$ of the Three-Day Performer rate; or
 - (iv) $\frac{1}{40}$ of the Weekly Performer rate, as appropriate, not to exceed eight (8) hours in any one day.
- D. An Employer may choose not to provide overnight lodging at Distant Locations if it is reasonably feasible for Performers to travel to such Distant Location within the work day and Employer does not provide overnight lodging to other cast, crew or personnel in connection with the Program. In such instance, Employer shall provide transportation (or reimbursement mileage) to Performers to such Distant Location. If Employer provides air transportation to distant locations, such transportation may be coach, provided no other cast, crew or production personnel fly any other class, and bus and railroad transportation is acceptable if no other means is available or feasible under the circumstances. If a Performer is required to drive his/her own car to a Nearby or Distant Location, he/she shall be paid at the maximum rate per mile which the Internal Revenue Code and Regulations provide. Should a Performer elect to use any form of transportation other than that provided by the Employer, he/she shall be reimbursed at an amount equivalent to what the Employer would have paid for hours spent if the Performer had used the Employer's transportation.
- E. A Performer shall be dismissed at the place at which he/she reported to work, not at a subsequent location (unless this would make no sense under the circumstances).
- F. Nothing in this Section shall be deemed to break the consecutive employment of the Performer.
- G. Reasonable meal periods shall be given during traveling and allowable meal periods of not less than one-half ($\frac{1}{2}$) hour nor more than one (1) hour each shall be deducted from travel time.

30. MINORS

- A. Recognizing the special situation that arises when Minor (as defined below) children are employed, the parties hereto have formulated the following guidelines to ensure that the work environment is a proper one for the Minor: that the conditions of employment are not detrimental to the health, education and morals of the Minor “morals” being defined as set forth in the penal code of the applicable state of employment; and that the best interest of the Minor be the primary consideration of the parent (as defined below) and the adults in charge of the production, with due regard to the age of the Minor.
- B. A “Minor” is: any Performer under the age of 18 years or legal age of majority in the state in which services are performed, except that it shall not include any such Performer if the Performer is legally emancipated, legally married, or a member of the United States armed forces.
- C. A “Parent” is a Parent or other adult who has the legal right to act as guardian of the Minor. A guardian, who shall be not less than the age of majority in the state in which the services are rendered, may be appointed by the Parent to fulfill the supervisory functions of the Parent required by this Agreement, provided that: (i) Employer is provided with written certification of such appointment by the Parent; and (ii) such appointment confers legal authority of the Parent to such guardian. In such instance where a Parent has appointed a guardian to supervise the Minor’s services hereunder, the term “Parent” shall be deemed to include such guardian.
- D. Interviews, Tests and Fittings: Calls for interviews, tests and fittings for Minors shall not take place at any time during which the Minor would otherwise be attending school, and shall be completed prior to 7:00 p.m. Two adults shall be present at all times during any such sessions, and the Minor shall not be removed from the reasonable, immediate proximity of the Parent. Casting directors or other representatives of the Employer shall make reasonable efforts to safeguard the Minor’s health, well-being and dignity during these sessions and shall not engage in any behavior which will embarrass, discredit, disconcert or otherwise compromise the dignity and mental attitude of the Minor.
- E. Engagement:
1. Employer shall advise the Parent of the Minor of the terms and conditions of the employment (studio location, estimated hours, hazardous work, special abilities required etc.) to the extent that they are known at the time of hiring.
 2. Prior to the first date of engagement, the Parent shall obtain, complete and submit to the Employer or its representative the appropriate documents required by state and local law related to the employment of a Minor.
 3. Upon employment of any Minor in any areas outside of California, Employer shall notify the AFTRA local office by telephone where such employment will take place. The Union will acknowledge receipt of this information to Employer in writing.
- F. Meals: Whenever Employer supplies meals or other food or beverages to the cast or crew the same shall be furnished to all Minors. Regarding beverages, this provision is applicable only in those situations where Employer supplies beverages to the cast and crew and is not applicable where isolated groups may supply their own beverages (e.g., prop trucks with cooler for beverages). When meals are served to Minors, tables and seats shall be made available for them. No time shall be deducted from work time for any meal supplied by Employer until the Minors are given the opportunity to get in the line for the actual feeding. “Meal” means an adequate, well-balanced serving of a variety of wholesome, nutritious foods. The furnishing of snacks, such as hot dogs or hamburgers, to Minors by Employer shall not constitute a meal period. Meals supplied by the Employer shall not be deducted from the Minors’ wage but may be deducted from the per diem.
- G. Supervision:
1. A Parent must be present at all times while a Minor is working, and shall have the right, subject to the production requirements, to be within sight and sound of the

Minor. The Parent shall not interfere with the production or bring other Minors not engaged by Employer to the studio or location.

- 2. A Parent will accompany a Minor to wardrobe, makeup, hairdressing and dressing room facilities. No dressing room shall be occupied simultaneously by a Minor and an adult Performer or by Minors of the opposite sex.
- 3. No Minor shall be required to work in a situation which places the Minor in clear and present danger to life or limb. If a Minor believes he or she to be in such a dangerous situation after having discussed the matter with the Stunt Coordinator and Parent, then the Minor shall not be required to perform in such situation regardless of the validity of his or her belief.
- 4. When an Employer engages a Minor, Employer must designate one individual on each set to coordinate all matters relating to the welfare of the Minor and shall notify the Minor’s Parent of the name of such individual.
- 5. When a Minor is required to travel to and from location, the Employer shall provide Minor’s Parent with the same transportation, lodging, meals, mealtimes and per diem allowance provided to the Minor.
- 6. Whenever federal, state or local laws so require, a qualified child care person (e.g., LPN, RN or Social Worker) shall be present on the set during the work day.

H. Play Area: Employer will provide a safe and secure place for Minors to rest and play.

I. Working Hours: When a Minor is at location, the Minor must leave location as soon as reasonably possible following the end of his or her working day. Minors’ maximum hours of work shall be as outlined below (does not include meal time):

Age of Minor	Maximum Hours of Work	End of Day
0-5 years	6 hours	7:00 p.m.
6-11 years	8 hours	8:00 p.m. school days
		10:00 p.m. non-school days
12-17 years	9 hours	10:00 p.m. school days
		12:30 a.m. non-school days

- 1. Work Hours and Rest Time:
 - a. The work day for Minors shall begin no earlier than 7:00 a.m. for studio productions (6:00 a.m. for location productions) and shall end no later than the time specified above.
 - b. The maximum work time for a Minor shall not exceed that provided by the laws of the state governing his/her employment, but in no event shall work time exceed the maximum hours of work stated above. Work time shall not include meal time, but shall include a mandatory 5-minute break for each hour of work.
- 2. Employer shall make every effort to adjust a Minor’s call time so that a Minor need not spend unnecessary hours waiting on the set.

J. Unusual Physical, Athletic or Acrobatic Ability

- 1. A Minor may be asked to perform unusual physical, athletic and/or acrobatic activity or stunts, provided that the Minor and Parent represent that the Minor is fully capable of performing such activity and the Parent grants prior written consent thereto.
- 2. If the nature of the activity so requires, a person qualified by training and/or experience with respect to the activity involved will be present at the time of production.

3. Employer will supply any equipment needed and/or requested for safety reasons.

K. Child Labor Laws

1. Employer agrees to determine and comply with all applicable child labor laws governing the employment of Minors, and, if one is readily available, shall keep a summary of said laws in the production office.
2. Any provisions of this Section 30 which are inconsistent and less restrictive than any other child labor law or regulation in the applicable state or other applicable jurisdiction shall be deemed modified to comply with such law or regulation.
3. Inconsistent terms: The provisions of this Section 30 shall prevail over any inconsistent and less restrictive terms contained in any other sections of this Agreement which would otherwise be applicable to the employment of the Minor, but such terms shall be ineffective only to the extent of such inconsistency without invalidating the remainder of such provision.

L. Medical Care

1. Prior to a Minor's first call, Employer shall be provided with the written consent of the Minor's Parent for medical care in the case of an emergency. However, if the Parent refuses to provide such consent because of religious convictions, Employer shall have the right to require written consent for external emergency aid for the Minor should such need arise.

31. INDEMNIFICATION

- A. Employer shall indemnify and hold the Performer harmless from and against any liability, loss, damages and costs, including reasonable counsel's fees, by reason of any injury or damages incurred by a third party, including any other member of the cast, production staff crew or any other person, firm or corporation, which injury or damages are caused by another Performer's performance (including stunts) which occurs under the direction and control of Employer within the scope of the Performer's employment by Employer. Performer shall immediately notify Employer of any such pending or threatened legal action and the Employer shall, at its own cost and expense and without undue delay, provide the defense thereof. Performer shall cooperate with Employer as requested by Employer in the defense of any such action. No settlement shall be effected with respect to any such action by Performer without the express consent of Employer.
- B. A Stunt Coordinator engaged pursuant to this Agreement who is acting within the scope of employment shall be entitled to indemnification in the same manner and to the same extent as specified in Subsection 31.A above, if said Stunt Coordinator was directly employed by Employer.
- C. Nothing contained herein shall be deemed to confer greater liability on Employer than that which may be conferred by law, regulation or statute.

32. CAST CREDITS

Effective July 1, 2005, names of Performers (excluding background actors) will be included in the credits listed in game software only. An inadvertent failure to do so will not be deemed to be a violation of the Agreement. The Employer shall provide credits to an Industry website identified by the Industry Cooperative Committee as appropriate and shall make corrections of inadvertent errors or omissions that appear on said website.

33. MISCELLANEOUS

- A. An On-Camera Performer who gives an off-camera narration other than as the character portrayed on-camera, shall be paid full additional off-camera wages for such narration.
- B. All employment of Performers in Interactive Programs shall be under one of the forms of hiring specified herein.

- C. If any Program includes a union label, AFTRA shall have the right to have its label incorporated into the Program.
- D. Employer shall maintain a telephone within a reasonable distance on all locations where practical.
- E. The Employer believes that it has a highly commendable record of protecting animals and of preventing their abuse during production of Programs, and hereby confirms the commitment to the Principal that animals should be humanely treated during the production of Interactive Programs. The following constitutes acceptable standards of animal treatment:
 - 1. Employer shall make known throughout its organization its own insistence on the humane treatment of animals;
 - 2. Employer shall cooperate with the American Humane Association on Programs involving the use of animals when appropriate; and
 - 3. Employer shall require its production staff to observe adequate safeguards against the cruelty or killing of animals on or off-camera.

ARTICLE III - WORKING CONDITIONS - BACKGROUND ACTORS

1. APPLICATION

- A. This Article III contains provisions applicable to the working conditions of Background Actors. In addition, the following provisions of Article II shall be also deemed incorporated herein:
1. Section 5, "Work Time - Definitions & Exceptions";
 2. Section 6, "Overtime"
 3. Section 10, "Fittings, Wardrobe Tests and Makeup Tests";
 4. Section 11, "Makeup, Hairdress, Wardrobe Allowance";
 5. Section 12, "Rest Periods";
 6. Section 13, "Rest Period; Liquidated Damages for Violation";
 7. Section 14, "Meal Periods; Allowances; Liquidated Damages";
 8. Section 18, "Rehearsal Time";
 9. Section 19, "Saturday and Sunday Work; Night Work; Holidays";
 10. Section 21, "Scripted Lines, Upgrade of Background Actors (Non-Scripted Lines Only)";
 11. Section 25, "Dressing Rooms; Miscellaneous Amenities";
 12. Section 28, "Protection of Performers; Special Conditions";
 13. Section 29, "Travel";
 14. Section 30, "Minors".
- B. In the event of a conflict between the provisions of Article II applicable to Background Actors by this reference and the provisions of this Article III, the provisions of Article III shall govern.

2. INSERTS

- A. Background Actor notified in advance may do inserts for a single Program for the same day's pay. Background Actors notified in advance and specifically called to do inserts in two (2) or more Programs in the same day, may do up to and including five (5) such inserts for the same days pay, but shall be paid an additional day's pay for each five (5) additional inserts thereafter (or fraction thereof). For example, if he/she does a total of seven (7) such inserts in one day, he/she would be entitled to two (2) days' pay. If he/she does a total of fifteen (15) such inserts in one day, he/she would be entitled to three (3) days' pay.
- B. Background Actors notified in advance may do wardrobe tests for more than one Program for the same day's pay.
- C. No Background Actor shall be permitted to perform any work for more than one Program for the same day's pay, including Overtime, except for: inserts; wardrobe tests; work for different Platforms of the same Program.

3. WAIVERS

- A. If an Employer requests a waiver affecting Background Actors, AFTRA will issue the waiver without the imposition of any conditions if it believes that the Employer is entitled thereto. In the absence of misstatement or concealment of the facts the waiver will be final. If AFTRA believes that the Employer is not entitled to such final waiver, it shall issue a reviewable waiver (which is equivalent to a refusal of a waiver), or it may issue a conditional waiver wherein it will designate the conditions upon which it is willing to have the Employer proceed. Employer may either accept such conditions or refuse to accept the same.
- B. If a conditional waiver is issued and the Employer rejects the conditions thereof, or if AFTRA issues a reviewable waiver, the Employer may nevertheless proceed as though a final waiver had been issued. If the Employer proceeds without first obtaining a final waiver or without complying with the conditional waiver, it shall notify AFTRA in writing to that effect within a reasonable time thereafter.

- C. Either party shall have the right to invoke the arbitration procedure as provided in Article I, Section 41, to resolve any dispute regarding waivers.
- D. All waivers shall be requested as far in advance as reasonably possible and shall be acted upon promptly by AFTRA. If AFTRA fails to do so, the Employer may proceed as though AFTRA had issued a reviewable waiver, by so notifying AFTRA in writing.
- E. The application for a waiver by any Employer shall not be deemed an admission that the Employer cannot proceed without obtaining such waiver, nor shall the issuance by AFTRA of a reviewable waiver be an admission that the Employer is entitled to such a waiver.

4. HAZARDOUS WORK

- A. When Background Actors are required to do night work, “wet” work, or work of a rough or dangerous character, the Employer shall notify the Background Actors at the time of the call. When a Background Actor is not so notified, he/she shall be given the option of refusing to perform the work. If he/she refuses, he/she must be paid for all time elapsed from the time he/she is called until he/she is dismissed. Such refusal shall not result in discrimination against such Background Actors.
- B. Background Actors who are hired at Scale, and who thereafter accept hazardous work, shall be entitled to additional compensation. The amount of additional compensation shall be agreed to between the Background Actor and the Employer, or the Employer representative, prior to the performance of such work.
- C. The Employer will not deliberately hire anyone but Qualified Professional Background Actors to perform hazardous Background Actor work in accordance with this agreement. No stunt person hired as such may be employed for Background Actor work on location except for bona fide emergencies not within the contemplation of the Employer. No stunt person hired as such may be employed for Background Actor work at the studio on the day he/she was employed as a stunt person on the same production. Upon a written request from AFTRA, the Employer will submit a report to AFTRA indicating whether any stunt persons have been employed on a particular Program. Upon the written request of AFTRA, the Employer will also furnish a copy of the script involved and make a tape available to AFTRA for viewing.
- D. For violation of this Section 4, the following Liquidated Damages shall apply per person per day:
 - \$215.00 for the first violation
 - \$350.00 for the second and each succeeding violation

These Liquidated Damages shall not apply if there is a bona fide dispute as to whether the work is “Background Actor work” or “stunt work.”

5. WET WORK

A Background Actor required to get wet shall receive additional compensation of \$12.35 (effective 1/1/06 12.70; effective 1/1/07 13.10; effective 1/1/08 13.50) per day. He/she may refuse to get wet and, if so, shall receive ½ day’s pay for wet work, or the actual hours worked, whichever is greater.

6. BODY MAKEUP, SKULL CAP, HAIR GOODS

A Background Actor who is directed to and does have body makeup or oil applied to more than 50% of his/her body and/or who is required to and does wear a rubber skull cap, and/or who is required to and does wear hair goods affixed with spirit gum (specified as full beards, mutton chops or a combination of goatee and mustache) and/or who, at the time of his/her employment is required to and does wear his/her own natural full-grown beard as a condition of employment shall be entitled to additional compensation of \$16.50 (effective 1/1/06 \$17.00; effective 1/1/07 \$17.50; effective 1/1/08 \$18.00) per day.

It is also understood and agreed that any female Background Actor required to have body makeup applied to her arms, shoulders and chest while wearing a self-furnished low-cut gown and any Background Actor, male or female, required to have body makeup applied to his or her full arms and legs shall be entitled to such additional compensation therefor.

7. INTERVIEWS

- A. Background Actors reporting for interview shall receive an allowance for the first two-(2) hours of the interview in the amount of \$5.00. For additional time of the interview, Background Actors shall be paid in units of two (2) hours at the specified regular hourly rate for the call being filled. If, within any period of interview time, any recording or photography, still or otherwise, is done for use in any production, Background Actors shall be paid the agreed daily wage; except that still pictures to be used exclusively for identification of the Background Actor or wardrobe may be taken by Employer without making such payment.
- B. Upon completion of the interview the Background Actor shall be notified whether or not he/she has been selected, and he/she shall be advised as to the daily or weekly rate of compensation to be paid. If the Background Actor is not used in the production for which he/she was selected, he/she shall be paid the agreed wage (one day or one week) unless the Background Actor is not available when called, in which event he/she shall not be entitled to any payment.
- C. The Employer agrees to give AFTRA written notification within 48 hours after the interview, as to persons so selected on interview.
- D. A Background Actor required to report for a second interview for the same job shall be paid not less than two (2) hours pay at the established daily rate.
- E. Background Actors who are required to and do report for an interview in dress clothes shall be paid an additional \$6.00 over and above the regular interview allowance.

8. SIXTEEN-HOUR RULE

- A. Background Actors shall not be employed in excess of a total of sixteen (16) hours, including meal periods, Travel Time and actual time required to turn in wardrobe or property, in any one day of twenty-four (24) hours.
- B. Violation of the foregoing sixteen-hour rule shall be one (1) day's pay (at the Background Actor's daily rate including any additional compensation) for each hour, or fraction thereof of such violation. Such payment shall be paid at straight time, unless the violation occurs on a day for which double-time is provided under Article II, Section 19.A. above.
- C. This provision shall not apply in any case where such violation occurred as a result of circumstances or conditions, other than production considerations or conditions, beyond the control of the Employer with respect to or affecting the return of such Background Actors from location. Where the payment is excused the Background Actor shall receive all applicable Overtime. AFTRA will not claim any breach of contract resulting from the violation of the sixteen-hour rule unless the payment specified above is incurred and not paid.

9. CALL BACKS

- A. A "Call Back", as the phrase is used herein, means instruction by the Employer to the Background Actor given prior to the dismissal of such Background Actor to return to work on the same Interactive Program.
- B. Employer agrees that Call Backs for Background Actors shall be made as early as possible on the day prior to that specified in such Call Back. When given a definite Call Back, a Background Actor may not be canceled with respect thereto after 4:30 p.m. of that day, except in accordance with the provisions of Sections 10 and 11 of this Article III. Unless the Background Actor has been given a definite "Call Back" to return

the following day by 5:00 p.m. of a particular day of which shooting commences prior to 2:00 p.m., he/she shall be free to seek and accept other employment commitments.

- C. Notwithstanding the foregoing, if the Background Actor is established so that he/she cannot be replaced and the Employer requires his/her services on the following work day by giving him/her a definite Call Back, the Background Actor shall report pursuant to such Call Back. A Background Actor, who is given a Call Back after accepting another employment commitment and who must report pursuant to such Call Back because he/she has been established and cannot be replaced, will receive the assistance of the Employer giving the Call Back or its designated casting agency in arranging for him/her to be relieved of such other employment commitment.

10. CANCELLATION OF CALLS

- A. The Employer shall have the right to cancel any Call for any of the following reasons beyond his/her control: (1) illness in Principal cast; (2) fire, flood or other similar catastrophe or event of force majeure; or (3) governmental regulations or order issued due to a national emergency. In the event of any such cancellation, the Background Actor so canceled shall receive a one-half ($\frac{1}{2}$) day's pay, except as provided in Subsections D and G below.
- B. The Employer shall be entitled to hold and use such Background Actors for four (4) hours only to the extent herein provided. For each additional two (2) hours or fraction thereof, the Background Actor shall receive a one-quarter ($\frac{1}{4}$) day's pay.
- C. During the time which the Background Actor is so held, the Employer has the privilege of putting the Background Actor into costume, rehearsing, or making other use of his/her services. If, however, any recodation or photography is done, whether still pictures or otherwise, Background Actors shall be paid the agreed daily wage.
- D. If any Background Actor is notified of such cancellation before 6:00 p.m. of the work day previous to the work date specified in such call, or is otherwise employed on the same work date by the same production company at a rate equal to or higher than the rate applicable to such Background Actor as specified in such canceled call, he/she shall not be entitled to such one-half ($\frac{1}{2}$) day's pay.
- E. If the Background Actor's second work assignment is for a time to commence less than four (4) hours after the time of his/her canceled Call, the Background Actor shall receive in lieu of the one-half ($\frac{1}{2}$) day's pay an allowance for the cancellation of the Call on a straight time hourly basis, computed in thirty (30) minute units from the time of the first Call to the time of his/her second Call. Overtime, if any, on the second work assignment is computed without reference to the first Call. If the second work assignment is for a time to commence more than four (4) hours after the time of his/her canceled Call, the Background Actor shall receive the one-half ($\frac{1}{2}$) day's pay. Overtime, if any, shall be computed without reference to the first Call.
- F. If a Background Actor has not been notified as contemplated by Subsection D above, then notice must be posted at the hour designated for the Call, stating that the set will not work.
- G. Nothing herein contained shall enlarge the Employer's right to cancel Calls.

11. WEATHER PERMITTING CALLS

- A. When scheduled photography is canceled by Employer because of weather conditions, Background Actors reporting pursuant to a "weather permitting" call shall be paid one-half ($\frac{1}{2}$) day's pay, which shall entitle the Employer to hold the Background Actor for not more than four (4) hours; the Background Actor shall receive a one-quarter ($\frac{1}{4}$) day's pay for each additional two (2) hours or fraction thereof, during which he/she is thereafter held.
- B. During this time the Employer may costume, rehearse or otherwise use the Background Actor on the specified photoplay, except for recording or photography still or otherwise, of such Background Actor.

- C. If the Background Actor is used for such recording or photographing, he/she shall receive a day's pay.
- D. The Background Actor may cancel a weather permitting Call previously accepted by notifying the agency which issued the call prior to 7:30 p.m. or the closing time of such agency, whichever is earlier, unless he/she has been established in the picture.
- E. Weather permitting Calls shall not be issued for stages in studios, nor shall a weather permitting Call Back be issued to any Background Actor after he/she has been established.
- F. When a weather permitting Call is given, the Employer must specify that the Background Actor is to work: (1) if it is raining; (2) if it is cloudy; or (3) if the sun is shining; provided that if any other special type of weather is a condition precedent to the Background Actor working, the same may be specified, but must be described sufficiently so as to be capable of understanding by a Background Actor.
- G. Employer agrees that it will not request the Background Actors to call in the early morning hours of the following day for a possible weather permitting call.

12. UNDIRECTED SCENES

Upon request of Employer, AFTRA will grant an automatic and unconditional waiver whereby the Employer may photograph long shots of the normal activities of crowds at public events or crowd scenes. The events must be open to the general public and publicized as such. The crowd so photographed shall appear only as atmospheric background except that Background Actors or photographic doubles may be used if the Employer stages one or more tie-in shots using Qualified Professional Performers and/or Background Actors in connection with such tie-scenes.

13. OMNIES

Any Background Actor who speaks atmospheric words, commonly known in the entertainment industry as "omnies", shall be entitled to the basic wage for the particular call.

14. HIRING PRACTICES

- A. No Background Actor shall be employed on account of personal favoritism.
- B. Rotation of work shall be established to such reasonable degree as may be possible and practicable.
- C. No person having authority from the Employer to hire, employ or direct the services of Background Actors shall demand or accept any fee, gift, or other remuneration in consideration of hiring or employing any person to perform work or services as a Background Actor, or permitting such person to continue in said employment.

SIDELETTER OF UNDERSTANDING

January 1, 2010

Mathis L. Dunn Jr.
Assistant National Executive Director
American Federation of Television and Radio Artists
5757 Wilshire Boulevard, 9th Floor
Los Angeles, CA. 90036

Re: Atmospheric Performers

Dear Mathis:

This will confirm the discussions leading up to the creation of the Atmospheric Voices category in the Interactive Media Agreement.

If a character is one of the lead characters of the game, the performer voicing that lead character is to be paid not less than the Principal Performer rate.

Any formal claim arising out of the use of the Atmospheric Voices classification shall be filed pursuant to the Arbitration provisions of the Interactive Media Agreement but shall be referred to the Cooperative Committee prior the initiation of an arbitration hearing.

Notwithstanding the reference to the Cooperative Committee, if the Cooperative Committee does not meet within forty-five (45) days after the filing of the arbitration claim, the matter may proceed directly to arbitration hearing.

The actual time necessary to satisfy the referral to the Cooperative Committee shall not be counted toward the time limits provisions of the Arbitration procedures and shall not serve as the basis for a laches defense.

Very truly yours,

/s/

Scott J. Witlin
Akin Gump Strauss Hauer and Feld LLP

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AMERICAN FEDERATION OF TELEVISION AND RADIO ARTISTS

**5757 Wilshire Blvd., 9 Fl.
Los Angeles, CA. 90036
(323) 634-8100**

51 of 57

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INTERACTIVE MEDIA AFTRA Health & Retirement Report						
IMPORTANT: Make checks payable to AFTRA Health & Retirement Funds and mail with the white original to AFTRA Health & Retirement Funds, P.O. Box 13673, Newark, New Jersey 07188-3673. Send talent checks with the blue copy to your local AFTRA office and retain the yellow. For Health & Retirement Funds inquiries call 1-800-562-4690 or (212) 499-4880 and ask for Participant Services. Use this form for all Interactive Media, including additional payments and reuse for existing material in Interactive Media.						
Reporting Company: _____			Date of Report:			
Address: _____			Employer:			
			Title of Program:			
Signature (Authorized Representative):			PLEASE CHECK THE BOX(ES) THAT APPLY: ☐ Original Work ☐ Sold to Public ☐ Remote Delivery ☐ Integration Payment ☐ Interactive TV Delivery ☐ Non-Interactive TV Delivery ☐ Promotional Programs ☐ Other (Specify)			
Account Number:						
Tax ID Number:			Recording Date(s)		Reuse/Integration Dates	
This is Sheet #1 of		Sheets (attached) Use additional sheets if more space is needed	Special Terms			
HEALTH AND RETIREMENT REMITTANCE						
(a) Total Gross Payment		(Sum of Column (F) All Pages)				
(b) Contribution of Gross Compensation		_____%				
(c) Adjustments		Explain in Detail in Separate Statement				
(d) Total Remittance		(Item b plus or minus Item c)				
(A)	(B)		(C)	(D)	(E)	(F)
Social Security Number	Performer's Name		Performance Category	Dates Worked	Other Fees	Gross Payment
	Last	First	Middle Initial			

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PERFORMER CONTRACT FOR INTERACTIVE MEDIA

Company: _____ Performer: _____
(c/o): _____

Title: _____
("Program")

Date Employment Starts _____ Telephone No. _____
Role(s) _____ Social Security No. _____

Type of Employment: Principal ☐ Voice-Over (4-hr. day) ☐ Number of Voices _____
(check one) Voice-Over (6-hr. day) ☐

Stunt ☐	Atmospheric ☐	Solo/Duo Singer ☐	Solo/Duo Dancer ☐
Sound Effects ☐	Background Actor ☐	Group Singer 3-8 ☐	Group Dancer 3-8 ☐
	Contractor ☐	Group Singer 9+ ☐	Group Dancer 9+ ☐

Form of Employment: Day Player ☐ 3-Day ☐ Weekly ☐
Daily Rate \$_____ 3-Day Rate \$_____ Weekly Rate \$_____

Off-Camera Hourly Rate (Singers Only) \$_____

Are payments being made now for: Remote Delivery _____ Integration _____
(initial if acquired)

Additional Terms and Conditions Attached: Yes ☐ No ☐

Special Provisions (if any):

Wardrobe supplied by Performer: Yes ☐ No ☐

If so, number of outfits _____ @ \$_____ (formal) _____ @ \$_____

THIS AGREEMENT covers the employment of the above-named Performer by,
_____ in the Interactive Program(s) and at the rate of compensation set
forth above and is subject to and shall include for the benefit of the Performer and the Employer,
all of the applicable provisions and conditions contained or provided for in the AFTRA
Interactive Agreement of 2010-2011, as the same may be amended, between AFTRA and
Employer. Employer shall have all the rights in and to the results and proceeds of the Performers
services rendered hereunder, to the maximum extent provided in the AFTRA Interactive
Agreement.

ACCEPTED AND AGREED:

_____ Company	_____ Performer
	Initial if Additional Terms and Conditions Agreed To _____

_____ Address	_____ Address
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_____ City	_____ State	_____ Zip Code	_____ City	_____ State	_____ Zip Code
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NOTICE TO PERFORMERS: RETAIN A COPY OF THIS CONTRACT FOR YOUR PERMANENT RECORDS

ADDITIONAL TERMS AND CONDITIONS

I. The provisions of the relevant American Federation of Television and Radio Artists Performer's Agreement ("AFTRA Agreement") between Company and AFTRA are incorporated into this contract and if any provision hereof violates the AFTRA Agreement, the latter shall control.

II. SERVICES: Performer shall perform all services in accordance with Employer's instructions and directions in all matters including those involving artistic taste and judgment, and Performer shall be available and shall render services at such times and in such places as Employer may designate. Employer shall not be obligated to use Performer's services or any results or proceeds thereof, nor shall Employer be obligated to produce, complete the production of, release, distribute, exhibit, advertise or exploit the Program or any part thereof. Nothing in this paragraph alters or releases Employer's obligations to Performer with reference to compensation. Employer shall be entitled to the maximum work period provided by the AFTRA Agreement with respect to the services provided hereunder. Any services beyond such time shall be compensated at the rate specified on the first page to which this Rider is attached. If no rate is specified, the compensation for overtime shall be the applicable AFTRA rate.

III. DEFINITIONS: "Interactive Media": is any media on which digitized product operates and through which the user may interact with such product including but not limited to personal computers, games, machines, arcade games, all CD-interactive machines and any and all analogous similar or dissimilar microprocessor-based units and the electronic formats/platforms which may be utilized in connection therewith. "Remote Delivery": is any system under which digitized product may be accessed for use from a location that is remote from the central processing unit on which the product is principally used or stored, such as an on-line service a delivery service over cable television lines, telephone lines, microwave signals, radio waves, satellite, wireless cable or any other service or method now known or hereafter invented for the delivery or transmission of such digitized product enabling interactive use. "Integration": is the use of an excerpt of a Performer's performance that was rendered under the terms of this Agreement, in any other Interactive program for which the Performer is not engaged to perform but such other programs is produced by the same employer as originally employed the Performer. Any other reuse of the Performer's performance shall be considered "reuse" hereunder. "Integration": does not mean or include: (i) the repetition of segments of any single Interactive Program that may appear to be many different programs due to the way viewers choose or recall various segments and manipulate the program; (ii) the re-configuration or reformulation of the material produced hereunder for a single program for the computer software code to adapt the Interactive Program to different Platforms; (iii) the use of material for Interactive Media in Linear Programs. "Program": a program refers to the final version of a fully-edited product for presentation to the viewer or user. "Interactive Program": is the final version of a fully-edited product presented on Interactive Media notwithstanding any variations which may occur between Platforms. "Program": does not refer to the computer software code utilized in the digitization process, any type of electronic technology, patents, trademarks, or any of the intellectual property rights of Employer. "Platform(s)": Platform refers to microprocessor-based hardware including but not limited to CD-ROM, CD-I and 3DO machines that utilize the appropriate compatible formats such as cartridges and discs, or other formats hereafter invented which memorialize Interactive Programs for viewer use. "Linear Programs": which do not possess interactive qualities are "linear" in nature, and mean those programs which are: (i) produced and memorialized by means of videotape or film photography or any other processes now known or hereafter invented through which photographic images or other visual representations (whether live-action or animated) are used alone, or in conjunction with audio effects and create life-like images of the characters therein, and, (ii) exhibited or transmitted to the viewer by television (UHF or VHF over-the-air broadcast, cable, satellite, or any other means or methods which may be known or hereafter invented for television reception) and/or video cassettes, video discs or any other devices used in conjunction with corresponding hardware to cause a presentation to be exhibited visually on the screen of a television receiver or any comparable device; and/or film projection in motion picture theaters. "Reuse": means the incorporation of material produced for Interactive Media in a Promotional Program or a Linear Program and the incorporation of material produced for Interactive program(s) under this Agreement in another program that is not covered under "Integration".

IV. TRAILERS/PROMOTIONS: Employer shall have the right to make trailers including "teasers" (a short trailer) for the purpose of advertising and promoting the Interactive Program.

The use of a Performer's services in any such trailer or "teaser" twelve (12) minutes in length or less shall not require the payment of additional compensation if the recordation of such trailer occurs during the Performers employment in connection with the applicable Interactive Program. Otherwise, applicable scale shall be the minimum compensation for services in connection with such trailers. Effective July 1, 2005, each Principal Performer seen or heard in recorded material incorporated from a game into a Promotional Program exceeding twelve (12) minutes in length shall be entitled to no less a single session payment at the applicable day performer minimum for the use of such footage and soundtrack.

No use of a Performer's services in a trailer as herein defined shall be used in connection with an endorsement of any service or product other than the Interactive Program(s) for which the performer was employed to render services. References to the hardware, platforms or Remote Delivery systems upon which the Interactive Program operates or references to other Interactive Programs shall not be deemed an endorsement of a service or product in violation of Section 18.B. if the Interactive Program is clearly identified by its title in such promotion to the consumer.

All advertising, publicity and promotional information relating to the program including but not limited to Performer's role therein, shall be solely issued and controlled by Employer. Performer shall not have the right to issue or authorize any advertising, publicity, or promotional information (including but not limited to press releases) or to refer to the program in any publicity issued by Performer without the prior approval of Employer in writing.

VI. SCREEN CREDIT: No casual or inadvertent failure by Employer to comply with the provisions of any credit obligations shall constitute a breach of this Agreement. Performer's rights and remedies in the event of a failure or omission by Employer to provide Performer the screen credit on the Program indicated herein shall be limited to Performer's rights, if any, to recover damages at law, but in no event shall Performer be entitled by reason of any such breach to terminate this Agreement or to enjoin or restrain the distribution or exhibition of the Program.

VII. RESULTS AND PROCEEDS: Employer shall have the right to record Performer's voice and performance and to exploit the same in connection with the Program in all Interactive Media and otherwise in accordance with the terms of AFTRA and this Agreement by any present or future method of recordation which may be devised or invented. Employer shall own all results and proceeds of Performer's services hereunder, including the copyrights thereof, and shall have all other rights of ownership, subject only to the provisions of the AFTRA Agreement requiring the payment of additional compensation for Remote Delivery and Integration and/or separate bargaining use for Linear Media and other reuse not covered in the Agreement. The Performer hereby consents to and grants Employer the exclusive right in and in connection with the Program and its advertising and promotion of the Program to use and license others to use Performer's name and likeness without the payment of additional compensation therefor in trailers and any and all promotional uses within the specifications of the AFTRA Agreement. Employer may exercise its such rights for trade or for any other lawful or authorized purposes desired by Employer.

This Agreement may not be assigned by Performer. Employer may assign this Agreement to any other person or entity provided that such entity assumes all of the executory obligations of Employer hereunder in compliance with the rules and regulations of AFTRA.